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| <p>UNOFFICIAL REPORTER'S TRANSCRIPT OF</p> <p>APPEAL HEARING ON</p> <p>SACRAMENTO POLICE DEPARTMENT ADMINISTRATIVE PENALTY</p> <p>8651 FORTE STREET</p> <p>May 31, 2019</p> <p>9:05 a.m.</p> <p>915 I Street</p> <p>2nd Floor Commission Hearing Room</p> <p>Sacramento, California</p> <p>Mandy M. Medina, CSR No. 11649</p> | <p>INDEX OF EXAMINATION</p> <p>WITNESS PAGE</p> <p>OFFICER STEPHEN PITTS</p> <p>Direct Examination by Ms. Bickel 22</p> <p>Cross-examination by Mr. Agarwal 42</p> <p>Redirect Examination by Ms. Bickel 70</p> <p>Recross-examination by Mr. Agarwal 78</p> <p>SERGEANT JASON KIRTLAN</p> <p>Direct Examination by Ms. Bickel 85</p> <p>Cross-examination by Mr. Agarwal 90</p> <p>DAVID HIN</p> <p>Direct Examination by Mr. Agarwal 105</p> <p>Cross-examination by Ms. Bickel 148</p> <p>Redirect Examination by Mr. Agarwal 191</p> <p>Recross-examination by Ms. Bickel 200</p> <p>Examination by the Hearing Examiner 207</p> <p>ZUHU WANG</p> <p>Direct Examination by Mr. Agarwal 212</p> <p>Cross-examination by Ms. Bickel 232</p> |
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| <p style="text-align: right;">Page 5</p> <p>1 Court Reporter, Mandy Medina, on behalf of the 2 appellants. 3 I will first hear evidence presented by City 4 staff and will enter into record any and all documents 5 presented to me for consideration prior to rendering a 6 decision. 7 I will then hear any evidence from the 8 property owner or representative of the owner; likewise, 9 enter any and all documents presented by that party. 10 Each person wishing to speak must fill out and 11 turn in a speaker form. When speaking, you may either 12 stand at the podium or sit at the desk and state your 13 name for the record. 14 Following the owner, I will hear evidence and 15 testimony from any other interested parties. After all 16 evidence and testimony has been presented, I will take 17 the matter under submission, review the file, and the 18 testimony given, and subsequently render a decision. A 19 written decision based on my findings will be mailed to 20 the property owner no later than 30 days from the 21 hearing date, and my decision will be final. 22 With that, I would like at this time to have 23 staff swear the City staff, inspectors, and officers for 24 this case. 25 MS. CHAND: Please raise your right hand.</p> | <p style="text-align: right;">Page 7</p> <p>1 THE HEARING EXAMINER: Certainly. 2 MS. BICKEL: First of all, before we went on 3 the record, we spoke with -- I'm sorry if I'm a little 4 too close here. 5 We spoke with Mr. Agarwal about one of the 6 issues we had intended to raise in this hearing; that 7 within the last couple of days, based on our review of 8 the documents and speaking to other City departments, 9 the City is going to withdraw and not include at all in 10 this hearing. There are some documents in both binders 11 that pertain to that, so we are going to request that 12 the Hearing Examiner disregard them. And if it has 13 anything to do with the Rental Housing Inspection 14 Program, and that includes registration, exemption, at 15 any time it has to do with inspections, so anything 16 having to do with that, the City is going to withdraw 17 and will not bring up in any way, shape or form. 18 In exchange, Mr. Agarwal has indicated that he 19 will excuse one of the subpoenaed witnesses, 20 Willie Harris. 21 Mr. Agarwal? 22 THE HEARING EXAMINER: Thank you. 23 MR. AGARWAL: Thank you, your Honor. Just 24 by -- 25 MS. BICKEL: And can I ask that you speak a</p> |
| <p style="text-align: right;">Page 6</p> <p>1 Do you solemnly swear under the penalty of 2 perjury that the testimony and evidence that you give at 3 this hearing shall be the truth, the whole truth, and 4 nothing but the truth? 5 (The Witnesses were sworn.) 6 MS. CHAND: Thank you. 7 THE HEARING EXAMINER: For purposes of 8 continuing, before we actually get started with the 9 hearing, I would like to remind members of the audience 10 that the hearing is in process right now, and I would 11 caution you not to speak in such a manner as to distract 12 the audience. 13 MR. AGARWAL: Madam Hearing Officer, I just 14 want to raise one small issue administratively. Behind 15 me is my client, and his primary language is Mandarin. 16 THE HEARING EXAMINER: All right. So we have 17 translation services. And that, for the record, is 18 noted, and I will note that in terms of my own 19 consideration. 20 MR. AGARWAL: Thank you. 21 THE HEARING EXAMINER: Thank you so much. 22 And, now, at this point in the hearing, we are 23 going to go ahead and hear testimony from City staff. 24 MS. BICKEL: Madam Examiner, we have a couple 25 of preliminary issues we would like to address.</p> | <p style="text-align: right;">Page 8</p> <p>1 little bit more into the mic? We're having difficulty 2 hearing you. 3 MR. AGARWAL: Sure. Of course. 4 MS. PATTERSON: You can sit down, if you want 5 to, if it's more comfortable. 6 THE HEARING EXAMINER: It's not necessary for 7 you to stand, counsel. 8 MR. AGARWAL: It's my custom. 9 MS. BICKEL: If you'd like to use this mic, 10 you may. 11 THE HEARING EXAMINER: Got it. Okay. 12 MR. AGARWAL: It's not on. There we go. 13 Madam Hearing Officer, the Rental Housing 14 Inspection Program is somewhat of a contentious issue in 15 this matter, which has already made one trip to the 16 Superior Court. And certain representations were made 17 about that Rental Housing Inspection Program, which we 18 took issue with, and we asked for Mr. Harris to be 19 presented here so that we may examine him about it. 20 I did have the conversation that has been 21 relayed by counsel with respect to excusing 22 Mr. Harris -- we asked for a subpoena to be issued, but 23 the City agreed to produce him -- on the condition that 24 the Hearing Examiner not consider anything to do with 25 the Rental Housing Inspection Program by way of evidence</p> |

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| <p style="text-align: right;">Page 9</p> <p>1 or by way of making a decision.</p> <p>2 If that is the agreement that I have, we would</p> <p>3 excuse Mr. Harris from being here -- we don't want to</p> <p>4 waste his time unnecessarily -- on the simple condition</p> <p>5 that he be subject to recall in the case that that</p> <p>6 agreement that we have here is violated.</p> <p>7 MS. BICKEL: The City agrees to that.</p> <p>8 THE HEARING EXAMINER: Excuse me?</p> <p>9 MS. BICKEL: We agree to that, to have him</p> <p>10 recalled in case that does occur.</p> <p>11 THE HEARING EXAMINER: The City has agreed to</p> <p>12 those conditions and we will not hear testimony or any</p> <p>13 further discussion on the Rental Inspection Program</p> <p>14 after this point.</p> <p>15 MR. AGARWAL: Thank you very much.</p> <p>16 THE HEARING EXAMINER: Thank you.</p> <p>17 MS. BICKEL: And may Mr. Harris be dismissed?</p> <p>18 THE HEARING EXAMINER: And, Mr. Harris, you</p> <p>19 are free to go. Thank you for coming in.</p> <p>20 MS. AUTIO: Mr. Agarwal, when you speak, we</p> <p>21 really need you to speak into the mic, because then</p> <p>22 that's what captures it on the recording for us, please.</p> <p>23 MR. AGARWAL: Thank you very much.</p> <p>24 Mr. Harris, we appreciate you coming down.</p> <p>25 MS. AUTIO: You'll have to sit down and --</p> | <p style="text-align: right;">Page 11</p> <p>1 be issued: One for the presence of two officers,</p> <p>2 Mr. Harris, and Ms. Chand.</p> <p>3 We did receive a letter back from --</p> <p>4 MS. PATTERSON: Ms. Patterson.</p> <p>5 MR. AGARWAL: -- Ms. Patterson, who I believe</p> <p>6 is next to you --</p> <p>7 THE HEARING EXAMINER: Yes.</p> <p>8 MR. AGARWAL: -- who is staff counsel for</p> <p>9 this -- I don't know if it's the commission or --</p> <p>10 MS. PATTERSON: It's for the Hearing Examiner.</p> <p>11 MR. AGARWAL: For the Hearing Examiner, saying</p> <p>12 that the City would not allow -- I think, as I</p> <p>13 understood it, would not present the information to you</p> <p>14 for a request. Even though we felt that the rules did,</p> <p>15 we did ask again. And we explained the reasonable</p> <p>16 necessity, which is what Chapter 1.28 requires us to</p> <p>17 show to obtain the subpoena for having the presence of</p> <p>18 Ms. Chand.</p> <p>19 Subsequent to our request, even though it was</p> <p>20 not presented to the Hearing Examiner pursuant to the</p> <p>21 rules of Chapter 1.28, the City did agree that they</p> <p>22 would produce Ms. Chand.</p> <p>23 The reason that Ms. Chand is pertinent to the</p> <p>24 case is the question of service of the administrative</p> <p>25 penalty. Ms. Chand is the person who signed the</p> |
| <p style="text-align: right;">Page 10</p> <p>1 thank you.</p> <p>2 MR. AGARWAL: We have to share the podium.</p> <p>3 MS. AUTIO: Yes. Yes.</p> <p>4 THE HEARING EXAMINER: Right. Exactly.</p> <p>5 MS. BICKEL: If you would like to come up and</p> <p>6 join us.</p> <p>7 MR. AGARWAL: Thank you. I will next time.</p> <p>8 MS. BICKEL: There was another one, one other</p> <p>9 issue with one of the subpoenas from Ms. Sharon Chand</p> <p>10 that we would like the Hearing Examiner to rule on</p> <p>11 preliminarily.</p> <p>12 Mr. Agarwal subpoenaed her as a witness. We</p> <p>13 have requested information from him as to why it was</p> <p>14 relevant, because the City code does require that all</p> <p>15 witnesses have relevant testimony. It is the City's</p> <p>16 position that this is a court-ordered hearing, so</p> <p>17 anything having to do with Ms. Chand was already</p> <p>18 addressed by the Court and/or is irrelevant to us being</p> <p>19 here today.</p> <p>20 THE HEARING EXAMINER: Mr. Agarwal?</p> <p>21 MR. AGARWAL: This is new to me. It was not</p> <p>22 brought to my attention that this would be an issue.</p> <p>23 By way of background, your Honor, on</p> <p>24 February 19th, I did write to your Honor, via the City</p> <p>25 Clerk, asking under section 1.28 that certain subpoenas</p> | <p style="text-align: right;">Page 12</p> <p>1 declarations of whether this penalty was served.</p> <p>2 We actually appealed, and we believe we</p> <p>3 appealed timely, but Ms. Chand wrote a letter rejecting</p> <p>4 our appeal, for which we had to take a trip to the</p> <p>5 Superior Court. And the Superior Court ordered this</p> <p>6 hearing, because our appeal was, in fact, timely.</p> <p>7 And one of the things that came out in that</p> <p>8 Superior Court process was, in fact, that the penalty</p> <p>9 that had been served had never made it to my client.</p> <p>10 Our position is that this hearing is still not</p> <p>11 valid, because that penalty has not been served.</p> <p>12 We want to establish for the Superior Court</p> <p>13 record, should we need to go there, exactly what</p> <p>14 happened with respect to service, the denial of the</p> <p>15 first right to a hearing, and whether or not the City</p> <p>16 was aware why the City -- why Ms. Chand was even making</p> <p>17 a decision about whether service was complete, proper,</p> <p>18 or our appeal was timely so that we have a nice,</p> <p>19 complete record. And that's why we'll be asking for it.</p> <p>20 The City has already agreed through</p> <p>21 Ms. Patterson, as I understand it, to present Ms. Chand.</p> <p>22 MS. PATTERSON: Let me just clarify what I</p> <p>23 said in my letter, was it was not necessary to have a</p> <p>24 subpoena issued, because those City personnel were to be</p> <p>25 attending the hearing, and that's why it wasn't</p> |

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| <p style="text-align: right;">Page 13</p> <p>1 necessary to have a subpoena, because I confirmed that 2 they would attend. I just want to clarify that. 3 Also, too, for the Hearing Examiner, she can 4 make a decision whether or not this is relevant to this 5 hearing. What you're talking about is all of the 6 matters that were in front of the Superior Court as to 7 why the court ordered this hearing. And so the question 8 is why is that relevant to this proceeding about what 9 Ms. Chand did in terms of the previous service about the 10 appeal, et cetera, because now we are at the hearing and 11 the judge already ruled on that and ordered us to have 12 this hearing. 13 MR. AGARWAL: Thank you, your Honor. 14 And the prior court -- 15 THE HEARING EXAMINER: I've got to remind you, 16 please, about the microphone. It's pretty serious stuff 17 for us. 18 MS. AUTIO: Maybe you guys can stand. 19 THE HEARING EXAMINER: Yeah. 20 MR. AGARWAL: Of course. 21 THE HEARING EXAMINER: Thank you. 22 MR. AGARWAL: You had a question, ma'am? 23 THE HEARING EXAMINER: Yeah, my question -- 24 well, my question was speaking into the microphone, to 25 remind you to do that.</p> | <p style="text-align: right;">Page 15</p> <p>1 going to allow it or not allow it. My own personal view 2 is that the code says you should allow testimony. 3 We asked for a subpoena. We believe that the 4 decision about whether a subpoena should have been 5 issued was for the Hearing Examiner. It was not done 6 that way, for whatever reason the City wants to do. 7 But, you know, we will accept whatever decision you 8 want. We do think it's important to have the proper 9 record. 10 MS. BICKEL: I would just like to add, I 11 think, Madam Hearing Examiner, you explained that this 12 is a fact-finding to determine whether the facts support 13 the issuance of the penalty based on the code. 14 The issue that Mr. Agarwal has brought up is 15 not something that the hearing -- it's not the authority 16 of the Hearing Examiner to determine. 17 If he would like to make his record to take it 18 up when he goes on appeal to the civil court, that's 19 fine. But it is the City's position that Ms. Chand's 20 testimony is not relevant to the issues before the 21 Hearing Examiner. 22 THE HEARING EXAMINER: And, at this point, I 23 would agree to that. We're here to hear issues 24 concerning illegal growth of marijuana; and should this 25 go to civil court, that would be the appropriate venue.</p> |
| <p style="text-align: right;">Page 14</p> <p>1 And I do take note that this was a decision by 2 the Superior Court that the hearing would be held, and 3 we are here today. 4 MR. AGARWAL: That is correct. And -- 5 THE HEARING EXAMINER: So we are here to hear 6 relevant information concerning the appeal itself. 7 MR. AGARWAL: That's fine, your Honor. We 8 have made our record, I think. 9 We have tried to indicate, both in 10 correspondence -- and I'm happy to attach the 11 correspondence that I had with Ms. Patterson and the 12 City Clerk. 13 THE HEARING EXAMINER: We have that, yes. 14 MR. AGARWAL: Thank you. 15 And the record will reflect that our 16 understanding is the Superior Court said that we did 17 respond in a timely manner. Whether the question of it 18 was served properly is still open. 19 And, in fact, the question of whether it was 20 served properly is the thing that the Hearing Examiner 21 is entitled to decide, not Ms. Chand, by sending a 22 letter saying so. 23 (The Reporter requested clarification.) 24 MR. AGARWAL: And that's what we requested. 25 It is up to you, of course, whether you are</p> | <p style="text-align: right;">Page 16</p> <p>1 MR. AGARWAL: Thank you, your Honor. We will 2 accept the ruling with our noted objection. 3 THE HEARING EXAMINER: Thank you. 4 MS. BICKEL: I think we are ready to proceed. 5 MS. CHAND: You can adjust it. Can you pull 6 the mic a little closer to you, too? 7 MS. BICKEL: Absolutely. 8 MS. CHAND: Perfect. Thank you, ma'am. 9 MS. BICKEL: You're welcome. 10 Good morning, Madam Examiner. My name is 11 Melissa Bickel, and I'm here to represent the City of 12 Sacramento at this administrative appeal hearing. 13 There is a little bit of background that you 14 should have. 15 Is that echo really bad? Is that better? How 16 is that? Can you hear me now? Yep? I'm not echoing? 17 Great. 18 The appellants are engaged in the business of 19 housing, rental housing, in the city of Sacramento. 20 Those engaged in this business, whether as a property 21 owner or as a property management company, have duties 22 and responsibilities that are set forth in the City 23 code. In fact, in your packet, we provided something 24 called Proper Property Management at section 8.08.050. 25 Oh, and I will -- I will delete the next item</p> |

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| <p style="text-align: right;">Page 17</p> <p>1 that's on there, so you can ignore that pursuant to our 2 agreement. 3 So all we're talking about here is Proper 4 Property Management. 5 Then the main issues before the Hearing 6 Examiner today are did the appellants violate the City 7 code that prohibits the residential cultivation of 8 cannabis -- these are found in sections 8.132.30 and 9 .40, which are also a part of your packet -- and if the 10 corresponding penalty of \$500 per plant over the six 11 plants allowed as set forth in section 8.130.050 (sic) 12 was appropriate. 13 Those are the only issues before this court, 14 and the only authority that the Hearing Examiner has 15 today based on what the City Council has provided. 16 So let's look at the first section, 8.132.30. 17 This is a verbatim copy of it. No person shall own, 18 lease, occupy, or have charge or possession of any 19 property upon which cannabis is knowingly or unknowingly 20 being cultivated, except in accordance with the 21 following. 22 So this tells you residential cultivation of 23 cannabis is illegal unless one of the two things occurs. 24 Actually, any cultivation of cannabis. 25 The first exception is Chapter 5.150. That's</p> | <p style="text-align: right;">Page 19</p> <p>1 residential property over six plants is subject to a 2 \$500 per plant penalty. 3 Now, let's talk about the Hearing Examiner's 4 authority here. The City code spelled out exactly what 5 the authority is. 1.24.070 states that the Hearing 6 Examiner is limited to a fact-finding determination. 7 And you will see in here I put in evidence 8 code 11513, which is also in your packet, and that 9 discusses exactly what this is, a fact-finding hearing. 10 It's not -- there are no -- it's not based on evidence. 11 The Hearing Examiner is not here to make rulings on 12 evidentiary objections or the admissibility of 13 documents. It's just facts, applying the facts of this 14 case to the ordinance and seeing if the ordinance was 15 violated based solely on those facts. 16 The Hearing Examiner also does not have the 17 authority to declare any of the ordinance as 18 unenforceable or unconstitutional. 19 So what are the relevant facts here? 20 Appellants are the legal owners and lessors of 21 8651 Forte Street. 22 Officer Pitts is here today, and he will talk 23 to you about the Sacramento Police Department's 24 investigation resulting in the execution of a search 25 warrant. And as a result of that search warrant,</p> |
| <p style="text-align: right;">Page 18</p> <p>1 cannabis business. That's the dispensaries, and that's 2 not what's at issue here. 3 The second exception is based on section one 4 point -- 8.132.040, which the penalty that was issued by 5 Sergeant Kirtlan will indicate that's the penalty that 6 was issued. 7 So you have to start with .030, and then if an 8 exception applies, you move to .040, and then you look 9 to see if that section is violated. 10 Section .040 says, No person shall cultivate 11 cannabis within a private residence or upon the grounds 12 of a private residence unless it is conducted in 13 accordance with this section. 14 And the applicable part of that section is B, 15 which states, Regardless of how many people reside in 16 the private residence, no more than six living cannabis 17 plants may be cultivated within the private residence or 18 upon the grounds of the private residence pursuant to 19 Health and Safety Code 1136. -- 11362.1. 20 So those are the three statutes that -- or 21 excuse me -- the two statutes that govern the violation. 22 And then you move on to section 8.132.050, and 23 that sets forth the penalty for the violation. And it 24 says, as you can see, that based on a violation of those 25 two sections, any living cannabis plant found in a</p> | <p style="text-align: right;">Page 20</p> <p>1 officers found 281 cannabis plants inside 8651 Forte 2 Street. And just for the record, that's 275 in excess 3 of the six plants allowed under the code. 4 So pursuant to section 8.132.050, they were 5 assessed a \$500 per plant penalty over the six plants 6 allowed, and they were assessed a \$137,000 penalty, 7 which is what the issue is here today. 8 The penalty was posted at the property and 9 mailed to the appellant's address of record based on the 10 County Assessor's website. 11 Now, let's talk about why the City believes 12 there was a violation. Appellant's ownership of this 13 property alone where illegal cannabis cultivation 14 operations occurred places them in violation of 15 sections .030 and .040. 16 And as .030 states, knowledge of illegal 17 cannabis cultivation operation existing on appellant's 18 property is not required to establish a violation of 19 these sections. 20 Additionally, hiring a property management 21 company, which we believe the property management 22 company is here to testify today, does not shield a 23 property owner from a violation of these sections. 24 Even though this is not a legal discussion, it 25 is very clear in the law that a principal is charged and</p> |

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| <p style="text-align: right;">Page 21</p> <p>1 bound by the knowledge of their agent. And this is a</p> <p>2 principal/agent relationship that we believe that</p> <p>3 appellants are going to try to establish.</p> <p>4 Civil code section 2332 also describes the</p> <p>5 principal/agent relationship and why, if the principal</p> <p>6 has no -- excuse me -- if the agent has notice, the</p> <p>7 principal is also found to have notice.</p> <p>8 So the property management company steps into</p> <p>9 the shoes of the owner, and they are considered one and</p> <p>10 the same. So the appellants cannot point their finger</p> <p>11 at the property management company and say that was</p> <p>12 their job to do, they didn't do it, I'm not responsible.</p> <p>13 That's not how this works. They can't circumvent the</p> <p>14 violation by blaming somebody else.</p> <p>15 So, in conclusion, whether knowingly or</p> <p>16 unknowingly allowing -- or excuse me. Let me start over</p> <p>17 again.</p> <p>18 Appellants owned and leased the property upon</p> <p>19 which the illegal cannabis was found. Whether that was</p> <p>20 done so knowingly or unknowingly makes no difference to</p> <p>21 the factual determination today. Therefore, it's the</p> <p>22 City's position that the corresponding penalty is proper</p> <p>23 and should be upheld. Thank you.</p> <p>24 THE HEARING EXAMINER: Thank you.</p> <p>25 Officer Pitts?</p> | <p style="text-align: right;">Page 23</p> <p>1 question first. With respect to the court reporter, her</p> <p>2 instructions are to transcribe the proceedings, so she</p> <p>3 does not need to be given exhibits since she will not be</p> <p>4 compiling exhibits.</p> <p>5 THE HEARING EXAMINER: Fine. That's fine.</p> <p>6 She can go from the Officer's testimony.</p> <p>7 MS. PATTERSON: It's easier for her, but --</p> <p>8 THE HEARING EXAMINER: That's fine.</p> <p>9 MR. AGARWAL: I think it would be easier for</p> <p>10 everyone. The second thing is --</p> <p>11 (Interruption by the Reporter.)</p> <p>12 THE HEARING EXAMINER: Actually, yes.</p> <p>13 MR. AGARWAL: I just want to make sure that we</p> <p>14 have a consistent understanding of what the evidentiary</p> <p>15 rules are.</p> <p>16 THE HEARING EXAMINER: And we will hear that</p> <p>17 from you in just a moment.</p> <p>18 MR. AGARWAL: Thank you.</p> <p>19 THE HEARING EXAMINER: If we could please hear</p> <p>20 testimony from the Officer, as I stated in my</p> <p>21 instructions.</p> <p>22 MS. PATTERSON: So you will need to go slow</p> <p>23 for the Court Reporter.</p> <p>24 THE WITNESS: Okay. I will start over.</p> <p>25 MS. PATTERSON: Yes, please.</p> |
| <p style="text-align: right;">Page 22</p> <p>1 DIRECT EXAMINATION</p> <p>2 THE WITNESS: Hello. I'm Officer Pitts, badge</p> <p>3 number 990. I have worked for the Sacramento Police</p> <p>4 Department for the past three years, and I am currently</p> <p>5 assigned to the central problem -- Central Station</p> <p>6 Problem-Oriented Policing Team. During the course --</p> <p>7 (Interruption by the Reporter.)</p> <p>8 MS. PATTERSON: Do you happen to have a copy</p> <p>9 of your staff report for her, if you're reading from</p> <p>10 your staff report?</p> <p>11 MS. BICKEL: It's in there.</p> <p>12 THE HEARING EXAMINER: No, no, for the court</p> <p>13 reporter.</p> <p>14 MS. BICKEL: I'll give a copy of mine.</p> <p>15 MS. PATTERSON: That way, if you're just</p> <p>16 reading it, she can track it.</p> <p>17 THE HEARING EXAMINER: Is that acceptable to</p> <p>18 you?</p> <p>19 MR. AGARWAL: Madam Hearing Examiner, I just</p> <p>20 want to be certain that the rules that we are --</p> <p>21 THE HEARING EXAMINER: Go ahead. And this</p> <p>22 is -- the question that I have is relative to your</p> <p>23 hearing reporter receiving a copy of the Officer's</p> <p>24 report.</p> <p>25 MR. AGARWAL: Thank you. Let me answer your</p> | <p style="text-align: right;">Page 24</p> <p>1 THE WITNESS: I am Officer Pitts. I have</p> <p>2 worked for Sacramento Police Department for the past</p> <p>3 three years, and I am currently assigned to the Central</p> <p>4 Problem-Oriented Policing Team.</p> <p>5 During the course of this investigation, I was</p> <p>6 a member of the South Marijuana Compliance Team. As</p> <p>7 part of the program, I enforce laws against illegal</p> <p>8 cannabis cultivation within our jurisdiction.</p> <p>9 During my career, I have attended</p> <p>10 approximately eight hours of drug-related classes. I</p> <p>11 have contacted no fewer than 25 persons in possession of</p> <p>12 marijuana, and I have spoken to each of these</p> <p>13 individuals regarding the use of marijuana and the</p> <p>14 effects of the drug. Since joining the marijuana team,</p> <p>15 I have helped dismantle no fewer than 30 indoor grow</p> <p>16 houses.</p> <p>17 Since 2015, Sacramento Police Department has</p> <p>18 seen a significant surge in crime associated with</p> <p>19 illegal cultivation of cannabis in the city. These</p> <p>20 illegal cultivation operations have attracted the</p> <p>21 attention of the criminal element who intend to steal</p> <p>22 the cannabis, money, and guns that are often found</p> <p>23 inside of these locations.</p> <p>24 Frequently, these individuals use force,</p> <p>25 weapons, and violence to take these items from illegal</p> |

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| <p style="text-align: right;">Page 25</p> <p>1 cultivators.</p> <p>2 In the past three years, we have responded to</p> <p>3 an increased number of home invasions, robberies,</p> <p>4 assaults, shootings, homicides, related to illegal</p> <p>5 cultivation.</p> <p>6 Furthering the problem, illegal cultivators do</p> <p>7 not report these crimes to the police department due to</p> <p>8 the illegal nature of their operations.</p> <p>9 In September of 2018, the Sacramento Police</p> <p>10 Department received information regarding a possible</p> <p>11 illegal cannabis cultivation operation occurring at</p> <p>12 8651 Forte Street, Sacramento, California.</p> <p>13 This property, which will now be referred to</p> <p>14 as "the property," is subject to today's administrative</p> <p>15 appeal and is owned by -- excuse my pronunciation of the</p> <p>16 names here -- Zuhu Wang and Xiaoyan Yue as of 6/27/17,</p> <p>17 2017.</p> <p>18 On September 26th, 2018, the City executed a</p> <p>19 search warrant at the property and observed 281 cannabis</p> <p>20 plants. On scene, there were approximately seven City</p> <p>21 personnel, six City vehicles. Personnel were on-scene</p> <p>22 for approximately three hours from the time the property</p> <p>23 was entered to the time the property was secured,</p> <p>24 boarded, and declared as a dangerous building.</p> <p>25 Officers knocked at the front door of the</p> | <p style="text-align: right;">Page 27</p> <p>1 combinations, one filter, four circulating fans, and one</p> <p>2 timer.</p> <p>3 Inside the washing room, which is on the</p> <p>4 second floor, one large high-intensity discharge light</p> <p>5 was located.</p> <p>6 In the upstairs bedroom on the second floor,</p> <p>7 which is a different room -- that's on the southwest</p> <p>8 portion of the residence -- 42 live marijuana plants</p> <p>9 were located, four high-intensity discharge light</p> <p>10 ballast combinations, one filter, three circulating</p> <p>11 fans, and one timer.</p> <p>12 In a different bedroom on the second floor, on</p> <p>13 the northwest portion, 42 live marijuana plants were</p> <p>14 located, four high-intensity discharge light ballast</p> <p>15 combinations, one filter, three circulating fans, and</p> <p>16 one timer were inside this room.</p> <p>17 On the first floor in the dining room, 57</p> <p>18 light -- 57 live marijuana plants were located, six</p> <p>19 high-intensity discharge light ballast combinations, one</p> <p>20 filter, four circulating fans, and one timer were</p> <p>21 located.</p> <p>22 In the kitchen, which is on the first floor of</p> <p>23 the east portion of the residence, I located a PG&E bill</p> <p>24 addressed to You Kai Lin that is dated 9/13 of '18, a</p> <p>25 SMUD letter addressed to You Kai Lin, and four clear,</p> |
| <p style="text-align: right;">Page 26</p> <p>1 residence. There was no answer. After numerous</p> <p>2 announcements, officers used breaching equipment to</p> <p>3 force open the security door.</p> <p>4 A man, later identified as You Kai Lin, came</p> <p>5 through the door. He was detained and no one else was</p> <p>6 located inside of the residence.</p> <p>7 Under Miranda, Mr. Lin stated the following in</p> <p>8 summary, and this statement was taken by</p> <p>9 Officer Nedeljkovic.</p> <p>10 I have been renting this house for two to</p> <p>11 three months. I am from Maryland. I have not paid rent</p> <p>12 in the last two months, because I do not have any money.</p> <p>13 The marijuana is mine. I smoke it. I have lots of</p> <p>14 pain. Someone told me it's good for my health. I do</p> <p>15 not have a job. I do not drive. I am in Sacramento to</p> <p>16 grow marijuana.</p> <p>17 The following items were observed inside the</p> <p>18 house. Inside the master bedroom, which is on the</p> <p>19 second floor, the east portion of the residence, 110</p> <p>20 live marijuana plants were located, six high-intensity</p> <p>21 discharge light ballast combinations, one filter, four</p> <p>22 circulating fans, one timer.</p> <p>23 In the master bedroom closet, which is, again,</p> <p>24 on the second floor, 30 live marijuana plants were found</p> <p>25 or located, two high-intensity discharge light ballast</p> | <p style="text-align: right;">Page 28</p> <p>1 plastic baggies.</p> <p>2 In the living room on the first floor of the</p> <p>3 west portion of the residence, I located a physician's</p> <p>4 statement addressed to You Kai Lin for medical marijuana</p> <p>5 purposes, and that was dated 6/8/17, a large quantity of</p> <p>6 clear, plastic baggies, multiple prescription</p> <p>7 medications with You Kai Lin's name on it, a wallet</p> <p>8 containing You Kai Lin's driver's license as well</p> <p>9 located in this portion of the house.</p> <p>10 You Kai Lin was arrested for illegal</p> <p>11 cultivation of cannabis. It should be noted that, on</p> <p>12 July 29, 2016, in a Sacramento Police report</p> <p>13 2016-219-085, officers responded to 7726 Dixie Lou</p> <p>14 Street for a disturbance call.</p> <p>15 Upon officers' arrival to that residence, they</p> <p>16 contacted You Kai Lin and conducted a protective sweep</p> <p>17 of that residence.</p> <p>18 Inside of that residence, 7726 Dixie Lou</p> <p>19 Street, officers observed that there were approximately</p> <p>20 93 plants, marijuana plants, inside that house.</p> <p>21 You Kai Lin advised officers that he was at</p> <p>22 the house to water the marijuana plants and stated he</p> <p>23 did not live at 7726 Dixie Lou Street.</p> <p>24 I have provided copies of the photographs</p> <p>25 reflecting my observation of this case to appellant and</p> |

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| <p style="text-align: right;">Page 29</p> <p>1 will be providing a copy to you for record, which you 2 guys already have. 3 Sacramento City Council has determined that 4 residential properties cultivating cannabis without 5 proper permits are unlawful and a public nuisance. 6 Indoor grows present serious health hazards to the 7 occupants and first responders. Black mold is commonly 8 found or present in these unlawful cultivation 9 operations, which is hazardous to humans. In addition, 10 exposure to the fertilizer and other contaminants on the 11 plant present further potential for harm to humans. 12 Cultivation also requires an enormous amount 13 of electricity and the possibility of unpermitted 14 structural modifications to the residential properties. 15 Such unpermitted work presents an extreme fire hazard to 16 the community due to faulty electrical hookups, 17 overloaded electrical systems, and blocked egresses. 18 The consequences for illegal cultivation must 19 be significant to prevent further social and physical 20 threats to the community. 21 The average indoor cannabis plant produces 22 approximately half a pound of processed cannabis per 23 plant. Although half a pound of processed cannabis can 24 be sold locally for around \$500 to \$1,500, the same 25 amount could be sold for \$2,000 to \$3,000 on the east</p> | <p style="text-align: right;">Page 31</p> <p>1 Hearing Examiner upholds the administrative penalty 2 against Zuhu Wang and Xiaoyan Yue in the amount of 3 \$137,500 -- \$137,500, issued by the City of Sacramento 4 on September 26th, 2018. 5 MS. BICKEL: And Officer Pitts has a 6 PowerPoint, but I just wanted to point, Madam Examiner, 7 to Exhibits H and I in the City's binder. Those are 8 declarations from Sacramento building inspector, 9 John Vanella, that talks about all of the violations 10 that were found and why those violations were issued. 11 And then we have a declaration from 12 Fire Officer Elizabeth McDowell, and she has a 13 declaration that explains all of the fire hazards that 14 were found. Based on the pictures that were provided by 15 Sacramento PD and Building Inspector Vanella, she 16 identified all the fire hazards she found, and she also 17 explained why these grow houses are such a danger to the 18 community and why they're such a fire hazard. 19 So before he proceeds, I just wanted to refer 20 everyone to those declarations. 21 MR. AGARWAL: Thank you, your Honor. We just 22 want to object to all of those declarations -- 23 Exhibit H, I, K, and P -- as hearsay. 24 MS. BICKEL: I'll just say that evidentiary 25 objections are not proper here; and that it's a factual</p> |
| <p style="text-align: right;">Page 30</p> <p>1 coast where, generally speaking, state laws against 2 cannabis are stricter. 3 In Sacramento, it is estimated that illegal 4 cultivators can harvest three to four growing cycles per 5 year. Therefore, an average of 200 -- an average 6 281-plant cultivation operation could produce 7 approximately 140.5 pounds of processed cannabis. The 8 annual output from an average 281-plant grow operation 9 is as much as 562 pounds of processed cannabis per year, 10 with potential proceeds of up to \$1,686,000. 11 An administrative penalty pursuant to 12 Sacramento City Code 8.132.050(E)(1) in the amount of 13 100 -- or one -- yeah -- \$137,500 was issued to the 14 owner of the property for violation of Sacramento City 15 Code 8.132.040(B), boy. 16 (The Reporter requested clarification.) 17 THE WITNESS: I'll say it over again. 18 Sacramento City Code 8.132.040(B). 19 A copy of the citation was left on the 20 counter. The City Attorney also mailed a copy of the 21 administrative penalty to the property owner. 22 The administrative penalty in this case is 23 appropriate due to the potential high proceeds to be 24 gained from the cultivation of illegal cannabis. 25 In conclusion, staff recommends that the</p> | <p style="text-align: right;">Page 32</p> <p>1 finding, and the Hearing Examiner may consider any 2 documents provided, as she indicated in the beginning. 3 MS. PATTERSON: I just want you to know that, 4 at these administrative proceedings, hearsay evidence is 5 admitted. 6 MR. AGARWAL: Thank you very much. I just 7 want to make sure the record is clear. 8 THE HEARING EXAMINER: Well, your record -- 9 the record is clear, but it will be admitted as 10 evidence. 11 THE WITNESS: So I will move forward here. 12 You will see some PowerPoint pictures from the 13 residence of 8651 Forte Street. 14 So this right here is an overall picture from 15 the front of the residence of 8651 Forte Street. This 16 house is on the east side of Forte Street, as you can 17 see here. 18 This is after entering the residence. 19 Here, it's just a couple of rooms here of 20 marijuana that we located inside of the house. These 21 are the plants. On the right there, you can see that 22 the plants are getting to the point of maturing. There 23 appears to be bud that is growing off the top of it, 24 which is the valuable portion of the marijuana. 25 Right there, you're going to see that the room</p> |

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| <p style="text-align: right;">Page 33</p> <p>1 is outfitted with reflective wallpaper, thermostats. 2 Those right there, when I mentioned high-intensity 3 discharge lights, light ballast combinations, those are 4 going to be what I'm talking about, the white things 5 hanging from the ceiling. There is vents. There is 6 electrical wire kind of going all over the place, 7 above-head, and so these are some of the things when I 8 mentioned the overload of electricity and just the 9 hazard that it presents to law enforcement when we go 10 deal with these houses to kind of dismantle them. These 11 are some of the things that we have to consider and that 12 we're facing. 13 These are a better view of what I'm talking 14 about here as far as the electrical work, the 15 circulating fans right there on the wall. 16 Right here, you are going to see these are 17 plywood. And so in order to prevent themselves from 18 being victims of being robbed or to kind of slow down 19 our access as law enforcement to gaining access inside 20 of these residences, they boarded up the windows here. 21 And, usually, in order to not alarm suspicion to 22 individuals that may be looking at the house, or maybe 23 the neighbors, they usually put like a curtain on the 24 outside of that window, and then board it up. So it 25 looks like nothing from outside, but inside, if you try</p> | <p style="text-align: right;">Page 35</p> <p>1 and imminent threats to the community and to first 2 respondents -- responders. I'm sorry. 3 THE HEARING EXAMINER: And if I may ask -- 4 MR. CAMACHO: Yes, ma'am. 5 THE HEARING EXAMINER: -- or clarify, all of 6 that documentation that you have just referenced has 7 been provided to the appellant's counsel? 8 MR. CAMACHO: Correct. It was provided -- it 9 was -- our records show that it was delivered at 10 10:00 a.m. yesterday to them. 11 I would like to point out for the record that, 12 on the other hand, appellant's binder we just got this 13 morning, so we haven't had a chance to review that. 14 But, anyway, yes. The answer is yes. 15 THE HEARING EXAMINER: The question was did 16 counsel have -- 17 MR. CAMACHO: Yes, ma'am. 18 THE HEARING EXAMINER: -- a copy. 19 Okay. Thank you so much. 20 MR. AGARWAL: Thank you very much. 21 THE HEARING EXAMINER: Mr. Agarwal. 22 MR. AGARWAL: Madam Hearing Examiner, I would 23 like to do two things. I would like to make a little 24 bit of an opening, and then I would like to kick into 25 some witnesses. And what I would ask is that the good</p> |
| <p style="text-align: right;">Page 34</p> <p>1 to break that window and get inside the house, you are 2 going to be met with this plywood. 3 And these are some dangerous things. So if a 4 fire is happening inside and you're inside this house, 5 this is an easy exit point, if you had to, to get out, 6 that is now covered up. So your egress outside the 7 residence is kind of taken away. These are some of the 8 modifications that we see. 9 Here is a bathroom. Usually, a lot of 10 chemicals are left. Usually, a lot of cultivation 11 chemicals or growing chemicals for plants are located 12 here. Here is going to be a subpanel that's put inside 13 the house that we located. 14 That will be it. That will conclude my 15 portion. 16 THE HEARING EXAMINER: Thank you. 17 MR. CAMACHO: Emilio Camacho, Deputy City 18 Attorney, on behalf of the police department and the 19 City of Sacramento. That's all the testimony from our 20 witnesses. 21 Again, I will restate, as Ms. Bickel stated, 22 that we do have the declarations of the Senior Fire 23 Officer Elizabeth McDowell, and Mr. John Vanella as 24 well, to sort of complement some of the stuff that 25 Officer Pitts was speaking about in regards to safety</p> | <p style="text-align: right;">Page 36</p> <p>1 officer already in the chair stay so that I can go ahead 2 and do a little examination of him. 3 (Interruption by the Reporter.) 4 MR. AGARWAL: Sure. Is that better? I think 5 it's on. 6 THE HEARING EXAMINER: There will be a green 7 light if it is on, and perhaps the top of it. 8 There you go. 9 MR. AGARWAL: You're trying to tell me I'm 10 short. 11 Behind me is the person who is referred to as 12 the appellant. 13 THE HEARING EXAMINER: Okay. Can we wave a 14 hand? 15 MR. AGARWAL: He's here in the green jacket. 16 Next to him is an interpreter. 17 THE HEARING EXAMINER: Okay. 18 MR. AGARWAL: He's a bus driver, and he has 19 been for a very long time, a hard-working individual. 20 In 2017, and I may have the dates a little bit 21 off, in expectation of eventually retiring -- 22 THE HEARING EXAMINER: I guess we are needing 23 you to speak up a little bit more. Maybe raise that 24 podium another couple of inches. Sorry. 25 MR. AGARWAL: I think we might be at the max.</p> |

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1 MS. AUTIO: It goes to the side. Other way.
2 THE HEARING EXAMINER: There we go.
3 MR. AGARWAL: He's been working a long time as
4 a bus driver. I think he will tell you his age is 60,
5 maybe 62, maybe 63. I don't recall.
6 In expectation of one day hoping to retire, he
7 bought a house, not for the purpose of living then, but
8 for the purpose of living eventually. That house is
9 what's sometimes referred to as the subject property.
10 It was his future home.
11 He lives in San Francisco, but he can't afford
12 to retire in San Francisco. He bought a house where he
13 could afford it, in Sacramento.
14 The agent who he bought the house from
15 recommended that, if he wanted to rent it, he hire a
16 property manager. He hired a property manager. That
17 property manager manages, I think, a few hundred
18 properties in the Sacramento area.
19 He's going to testify. His name is David Hin.
20 He's the owner of that company, and he's right there
21 raising his hand.
22 He's going to tell you what he did. He
23 advertised the property, a prospective tenant presented
24 themselves, he ran a background check. We are going to
25 show you the background check.

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1 You have heard Mr. Pitts -- excuse me --
2 Officer Pitts talk about this tenant having had a prior
3 incident. The Sacramento Police didn't arrest that
4 tenant, so there is no actual official record. It
5 doesn't appear on any background record. It's stuffed
6 in their little library or database only.
7 You are going to hear how Mr. -- the client
8 and the property manager inspected the property at the
9 time they first leased it, because that's good practice,
10 go and inspect the property before the lease to make
11 sure it actually complies with all the building codes
12 and little things.
13 Then you are going to hear from Mr. Hin, how
14 he went in December, I think, three or four months
15 after, to inspect the property again, to make sure that
16 it's got the smoke detectors and all of that stuff.
17 We are going to show you the notice that was
18 given to the tenant that the property manager is coming
19 to inspect the property. We are going to show you his
20 signed inspection form from that day.
21 Now, Officer Pitts talked about one important
22 thing, that the electricity data that he -- excuse me --
23 the electricity bill that he found was in the name of
24 the tenant. And I'm going to show you, through
25 Officer Pitts, how it is that they learned about this

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1 grow house.
2 What you will learn is that there were no
3 neighbor complaints, there were no reports to any
4 police, that there was no nothing. In fact, it's a
5 normal looking house if you do a drive-by, which a good
6 landlord should do and a good property manager do. And
7 you are going to hear from them about how they would do
8 periodic drive-bys.
9 But when you are on the outside, and you have
10 already seen the picture of the outside, and we will
11 show you more, if you would like, you can't tell. You
12 can't tell. And you can't just barge in. You have to
13 give notice. And you should have a reason, because
14 state law tells you that even tenants are people, too,
15 and they have privacy rights.
16 You are not going to hear that they had a
17 reason to do it. The property manager will tell you the
18 lawn looked fine, what you see from outside looks fine,
19 didn't have any neighbor complaints. I mean, this is
20 close-quarter living. These are not houses on estates
21 or anything. They're pretty close. Nobody is
22 complaining.
23 One of the things you didn't hear from
24 Officer Pitts is, well, we have patrols from the police
25 department. They're all the way down there. They're

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1 patrolling. You are not going to hear that the patrol
2 car found it. No.
3 What you are going to hear is that they have a
4 special relationship with Sacramento Municipal Utility
5 District employees --
6 (Interruption by the Reporter.)
7 MR. AGARWAL: Thank you. Let me repeat that.
8 They have a special relationship with
9 Sacramento Municipal Utility District, which is a
10 division of Sacramento, and they have the data on
11 electricity uses. They can see when there is a problem.
12 They called him, or wrote to him, or
13 something -- we'll get the details -- on September 17th.
14 And we're going to talk -- and I am going to march you
15 through why it took -- you'll hear a lot about things
16 that's dangerous.
17 (Interruption by the Reporter.)
18 MR. AGARWAL: Let me pull it a little bit
19 closer.
20 We'll talk through the process of how it is
21 the Sacramento police came to be at that house.
22 I'm also going to talk to you a little bit
23 about the facts of what Mr. -- both of them did
24 afterwards. It turned out that the day that the
25 Sacramento police were at his rented home, he's leaving

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| <p style="text-align: right;">Page 41</p> <p>1 for a trip overseas, and he doesn't come back until 2 October 12th. And during that time, he's put a mail 3 hold so that his mail doesn't pile up in front of his 4 Sacramento -- excuse me -- San Francisco apartment. So 5 it takes him a little time to get it together. 6 But when he comes back, he contacts the 7 property manager, saying, I got this thing in the mail. 8 And I say mail. This is regular mail, because he never 9 got any certified mail with the administrative penalty. 10 He hired a lawyer, presented an appeal, was denied the 11 right to appeal, to be here even. 12 He went to Sacramento to deal with a building 13 order, only to find out that, in fact, somebody had 14 already dealt with it. We are going to talk about that, 15 too. Who is this mystery person that dealt with it? 16 Because he didn't arrange for it to be cleaned up. 17 By the time they get -- 18 MS. BICKEL: It went out. 19 MR. AGARWAL: Not my fault. There we go. 20 By the time they get to the house, it's 21 already patched up. They never saw anything like this. 22 We're going to show you the pictures that Mr. Hin took. 23 It's patched up. Who did it? He didn't arrange for it. 24 And you will hear what Mr. Hin has to say about it. 25 This is not a case of a landlord trying to</p> | <p style="text-align: right;">Page 43</p> <p>1 something about the high potential for profit, right? 2 Is that right? 3 A. Yes. 4 Q. Do you have any information that my clients 5 realized anything by way of profits from the illegal 6 grow that occurred at the house? 7 A. No. 8 Q. Did you review the administrative penalty 9 before it was issued? 10 A. Yes. 11 Q. In front of you -- you were physically present 12 at the house on September 26th; is that right? 13 A. Yes. 14 Q. And did you see my client there? 15 A. No. 16 Q. The person who you arrested, in fact, was 17 You Kai Lin, right? 18 A. Yes. 19 Q. And Mr. Lin, did you understand him to have 20 been the tenant in possession of the property? 21 A. Yes. 22 Q. Now, on the day that you were there, you had a 23 search warrant to pick up not just the plants, but all 24 the papers in the house, right? 25 A. Yes.</p> |
| <p style="text-align: right;">Page 42</p> <p>1 encourage criminal doing in his home. 2 THE HEARING EXAMINER: At this point, I would 3 like to take a minute. I've asked that all electronic 4 devices be turned off. And if I see that again, I am 5 going to ask you to leave. All right? 6 Continue, please. 7 MR. AGARWAL: I'll start with a little bit of 8 the officer who is sitting here before us. 9 CROSS-EXAMINATION 10 BY MR. AGARWAL: 11 Q. Officer Pitts, I'm going to talk a little bit 12 about what you are reading. 13 Now, your testimony was -- you were reading 14 from something written; is that right? 15 A. Yes. 16 Q. And who wrote that? 17 A. It was compiled by myself and 18 Officer Kelli Streich. 19 Q. Did you physically write it? 20 MS. AUTIO: Can you repeat the name of the 21 other -- 22 THE WITNESS: Kelli Streich, myself and 23 Kelli Streich, we both compiled it. 24 BY MR. AGARWAL: 25 Q. At the end of your testimony, you said</p> | <p style="text-align: right;">Page 44</p> <p>1 Q. Did you find any document that suggested that 2 my client, the owners of the property, were in any way 3 complicit with the growing of those plants? 4 A. I did not find any documentation with your 5 client's name on it inside the house. 6 Q. You said you received information -- I think 7 those are the terms you used -- that caused you to 8 eventually end up at the house on September 26th; is 9 that right? 10 A. Yes. 11 Q. Am I correct you did not receive any kind of 12 information by way of a complaint from a neighbor; is 13 that right? 14 A. Yes. 15 Q. And you didn't receive any kind of report that 16 there was going to be a burglary in progress, right? 17 A. No. 18 Q. And you didn't receive any kind of information 19 that suggested there was suspicious activity at that 20 property, correct? 21 A. No. 22 Q. And you didn't receive any prior -- any kind 23 of reports that you had been given that there was any 24 kind of code violation at that property, right? 25 A. No.</p> |

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1 Q. And is it correct that the only reason that
2 caused the Sacramento Police Department to go to that
3 house was that you received a call from someone at the
4 Sacramento Municipal Utility District on September 17th,
5 nine days before?
6 A. Can you say that last part of that again? It
7 was not clear.
8 Q. Sure. I want to try to get at why you went to
9 the house on September 26th.
10 Is it correct that the only reason that caused
11 you to go, and obtain a warrant and to go, was that you
12 received electricity data from the Sacramento Municipal
13 Utility District?
14 A. I received information that this residence was
15 using power, a large amount of power, in 12-hour
16 increments.
17 Based off of my training, my experience,
18 talking to other individuals who have knowledge of
19 marijuana cultivation, the consumption of power, this
20 large amount of power, in 12-hour increments, is
21 indicative of marijuana cultivation.
22 In addition, we receive tips -- we receive
23 tips for many crimes from many different individuals,
24 different types of individuals. And so my point in
25 saying that is just because we receive a tip from, in

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1 this case, SMUD, it could be a neighbor, it could be a
2 community complaint, our job is to go out there and make
3 the community safe, right?
4 So if we get a lead about any illegal
5 activity, whether it's happening, whether we have seen
6 it, we are going to go out there and investigate it.
7 So that's the purpose of -- that is my duty as
8 an officer, is to go out there and investigate crimes.
9 It would be foolish of me, regardless of where the
10 complaint is, not to see if -- to follow it through and
11 see if it has some validity to it.
12 So the purpose of what you are talking about
13 now, that's what I did and that's where I got the
14 information from.
15 Q. I just want to make sure the record is clear.
16 Did you receive a tip with respect to this property
17 other than information about electricity usage?
18 A. No.
19 Q. You received -- who did you receive the
20 electricity usage information from?
21 A. I stated before, from SMUD.
22 Q. I'm sorry. Who was it from?
23 A. SMUD.
24 Q. SMUD? Who at SMUD?
25 A. SMUD investigator.

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1 Q. Who?
2 MR. CAMACHO: Madam Examiner, Emilio Camacho
3 on behalf of the Sacramento Police Department.
4 I will object to that information being
5 revealed, one, on the basis of, one, it is not relevant
6 to prove the underlying elements as to whether the
7 ordinance was violated.
8 Second, answering that question jeopardizes
9 officer safety, also the safety of potentially the SMUD
10 staff; and it has the risk of jeopardizing future
11 investigatory tactics and, therefore, officer safety as
12 well.
13 THE HEARING EXAMINER: Sustained.
14 Please go on.
15 BY MR. AGARWAL:
16 Q. How did you receive the information?
17 THE HEARING EXAMINER: I believe that's been
18 asked and answered. He said he received the information
19 from SMUD, which is the Sacramento Municipal Utility
20 District.
21 BY MR. AGARWAL:
22 Q. Did you receive it by phone? Did someone call
23 you? Did an investigator call you or did an
24 investigator E-mail you?
25 A. Face-to-face contact.

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1 MR. CAMACHO: Madam Examiner, Emilio Camacho,
2 again, on behalf of the Sacramento Police Department.
3 We provided counsel with the actual
4 information that was received. That is Exhibit --
5 Ms. Bickel, if you could identify that for me, please.
6 MS. BICKEL: F. F.
7 MR. CAMACHO: F.
8 So the information that Officer Pitts
9 received, that was relied on, was provided to counsel
10 ahead of time.
11 We feel that that question has been asked and
12 answered, and we have raised our objection to any
13 further testimony on that.
14 THE HEARING EXAMINER: I would ask for
15 relevance from you.
16 MR. AGARWAL: Thank you, your Honor.
17 I am trying to understand how he got the
18 information, and just telling me he got SMUD electrical
19 information doesn't tell me much. I'm going to get to
20 the exhibit. We are going to talk a lot about that
21 exhibit.
22 But it's important that I understand -- he's
23 testified, I know when I see electrical data and stuff
24 like that, I know a 12-hour duty cycle. It's not in the
25 data that they've provided, so I'm trying to understand

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| <p style="text-align: right;">Page 49</p> <p>1 how he knew it was a 12-hour duty cycle.</p> <p>2 THE HEARING EXAMINER: I understand your -- I</p> <p>3 understand that, but I am going to sustain the objection</p> <p>4 as well.</p> <p>5 And I think we need to move on with this.</p> <p>6 There is evidence that's been presented in the packet</p> <p>7 that you received regarding that, and you may --</p> <p>8 MR. CAMACHO: And, Madam Examiner,</p> <p>9 Emilio Camacho, once again.</p> <p>10 I would also like to point out that, in</p> <p>11 addition, we also provided counsel with the search</p> <p>12 warrant, copy of the search warrant, along with the</p> <p>13 police reports. And the search warrant includes all of</p> <p>14 the analysis and information that Officer Pitts relied</p> <p>15 on as well.</p> <p>16 THE HEARING EXAMINER: I did review that.</p> <p>17 MS. BICKEL: Exhibit C.</p> <p>18 MR. CAMACHO: That is listed as Exhibit C also</p> <p>19 for your own benefit, Madam Examiner.</p> <p>20 THE HEARING EXAMINER: I have that.</p> <p>21 BY MR. AGARWAL:</p> <p>22 Q. Officer Pitts, in front of you is a black</p> <p>23 binder. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Could you open that binder? This is</p> | <p style="text-align: right;">Page 51</p> <p>1 that could harm the officers and public, we can continue</p> <p>2 with that testimony.</p> <p>3 MR. AGARWAL: Your Honor, I have a due process</p> <p>4 right to cross-examine the Witness about a \$137,000</p> <p>5 penalty that he has written out.</p> <p>6 All I want to know, for the purposes of the</p> <p>7 record, is how he got the information and what he did</p> <p>8 with it and in what time frame he did it. I don't have</p> <p>9 to rely on documents. There are things in the documents</p> <p>10 that are not set forth that I need to clarify. I am</p> <p>11 entitled to ask those questions.</p> <p>12 THE HEARING EXAMINER: You can ask the</p> <p>13 question, but in terms of which word was put to paper by</p> <p>14 which person, I am going to call you on that.</p> <p>15 You are going to go ahead and ask a question</p> <p>16 of him in terms of where evidence was received, but,</p> <p>17 seriously, we are not going to go word by word through</p> <p>18 the document.</p> <p>19 BY MR. AGARWAL:</p> <p>20 Q. Officer Pitts, on September 17th, you received</p> <p>21 information face-to-face from an investigator at the</p> <p>22 SMUD that said there was a high amount of electricity</p> <p>23 being used, right?</p> <p>24 A. Yes.</p> <p>25 Q. And then on September 18th, you actually drove</p> |
| <p style="text-align: right;">Page 50</p> <p>1 administrative appellant's exhibits, and I would like</p> <p>2 you to open up Exhibit 12, please.</p> <p>3 A. To which page?</p> <p>4 Q. Exhibit 12 has multiple pages. And kind of at</p> <p>5 the bottom, you will see 6 of 36. I want you to open to</p> <p>6 12 of 36.</p> <p>7 MS. PATTERSON: So it's 12 of 36?</p> <p>8 MR. AGARWAL: Yes.</p> <p>9 BY MR. AGARWAL:</p> <p>10 Q. Is this the case summary that you wrote, or is</p> <p>11 it another officer on page 12 of 36 of Exhibit 12 --</p> <p>12 MS. BICKEL: Madam Examiner, before I allow</p> <p>13 Officer Pitts to respond, I would like to say -- oh,</p> <p>14 it's Melissa Bickel for the City of Sacramento. My</p> <p>15 apologies.</p> <p>16 I would just like to say that this document</p> <p>17 speaks for itself. Officer Pitts already indicated in</p> <p>18 his testimony what he did, what he prepared. To go</p> <p>19 through this document page by page is redundant and a</p> <p>20 waste of everyone's time.</p> <p>21 In the interest of efficiency and economy, I</p> <p>22 would just say that the document speaks for itself, the</p> <p>23 testimony speaks for itself; and if there is anything</p> <p>24 outside of the document that Mr. Agarwal would like to</p> <p>25 ask of Officer Pitts that is not proprietary information</p> | <p style="text-align: right;">Page 52</p> <p>1 to the property, right? It says here you conducted</p> <p>2 surveillance. Was that you or was that somebody else?</p> <p>3 A. Can you say that one more time?</p> <p>4 Q. Did you drive -- did you conduct any</p> <p>5 surveillance on the property on September 19th?</p> <p>6 A. Yes.</p> <p>7 Q. What did you do?</p> <p>8 A. I observed the house, I observed cars, foot</p> <p>9 traffic, if there was any. I am looking for signs of</p> <p>10 individuals coming in and out of the house. I did a</p> <p>11 surveillance on the house to gather more information in</p> <p>12 order to find facts to either dismantle the complaint</p> <p>13 that I got or to validate it.</p> <p>14 Q. Did you see any foot traffic when you did the</p> <p>15 surveillance at the property at issue?</p> <p>16 A. No.</p> <p>17 Q. Did you see multiple cars or one car?</p> <p>18 A. I saw one car.</p> <p>19 Q. And it was a white Honda, right?</p> <p>20 A. Yes.</p> <p>21 Q. And you ran the plates through Sacramento PD;</p> <p>22 is that right?</p> <p>23 A. I ran the plates, yes.</p> <p>24 Q. And those are the plates of the tenant,</p> <p>25 correct?</p> |

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1 A. It revealed that Zhan Lin was the registered
2 owner.
3 Q. Okay. Do you understand that to be
4 You Kai Lin, the tenant?
5 A. I cannot confirm if that's the tenant or not.
6 Q. Okay. Did you ever see any cars there -- how
7 long were you doing the surveillance?
8 A. I would say for approximately 20 to 40
9 minutes, but I don't recall the exact time, time frame.
10 Q. Were you alone or with another officer?
11 A. I do not recall.
12 Q. Okay. And the data, did you, at some point,
13 receive actual electricity data from the SMUD for that
14 property?
15 A. I did receive information about the
16 electricity usage.
17 Q. Did you receive any hard copy information?
18 A. Electronic data information.
19 Q. So someone sent you electronically in some way
20 some of the information that you reviewed, right?
21 A. Correct. After a request was made.
22 Q. Take a look at -- excuse me. In that same
23 binder, have a look at Exhibit 10.
24 Do you recognize what Exhibit 10 is?
25 A. Yes.

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1 Q. What is it?
2 A. It's a SMUD -- information from SMUD.
3 Q. Did you submit this request?
4 A. I did.
5 Q. So after somebody, an investigator, comes to
6 you and says, hey, there is an extraordinary amount of
7 electricity being used, you made a formal request for
8 data; is that correct?
9 A. Yes.
10 Q. All right. Now, on page 2, and kind of the
11 remaining pages of Exhibit 10, is this the data -- I'll
12 be very specific -- is this the data that you received
13 on or about September 19, 2018?
14 A. What date one more time?
15 Q. Well, in the week or so before you went to the
16 house.
17 A. No.
18 Q. Did you -- where is the data that you did
19 receive?
20 A. It should have been submitted. I don't see it
21 here in this binder.
22 MR. AGARWAL: Counsel, you can confer with
23 your client, but I want to finish my cross-examination.
24 MS. BICKEL: Maybe you can just ask him --
25 MR. AGARWAL: I will.

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1 MS. BICKEL: -- if he submitted --
2 MR. AGARWAL: I know how to ask questions.
3 Thank you, counsel.
4 BY MR. AGARWAL:
5 Q. When did you get this data?
6 A. This data was submitted after the search
7 warrant was conducted. This one is a historical SMUD
8 request for the historical data that reaches back
9 past -- past the -- the past three years, if we can get
10 that information.
11 This is not the information -- to answer your
12 question that you asked, this is not the information
13 that I use or the data that I use in order to author the
14 search warrant.
15 (The Reporter requested clarification.)
16 THE WITNESS: To write the search warrant.
17 There was another request that I submitted, that I do
18 not see here, and that information was submitted
19 electronically, and I received that information, and
20 that's where I came up with the kilowatt hours per month
21 and other information that was stated in the report.
22 BY MR. AGARWAL:
23 Q. Let's use this data since we don't actually
24 have the data --
25 A. Correct. Sorry.

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1 Q. -- that was previously requested.
2 What the SMUD data here -- am I correct to
3 call this SMUD data?
4 THE HEARING EXAMINER: Yes.
5 MS. PATTERSON: Yes.
6 MR. AGARWAL: Yes? All right.
7 BY MR. AGARWAL:
8 Q. If you look at page 2 of the exhibit, you are
9 looking at various columns and rows; is that right? And
10 this is for 861 (sic) Forte Street; is that right,
11 Officer?
12 A. Can you state that one more time, please?
13 Q. You are looking at the historical data,
14 electricity data, for 8651 Forte Street, right?
15 A. Yes.
16 Q. All right. So let's start on page 3, if you
17 can put the exhibit right in front.
18 MS. BICKEL: There is a laptop. I mean, we
19 can kind of try to.
20 MR. AGARWAL: I understand.
21 MS. BICKEL: When you talk about page 3, it's
22 actually page 4 of the exhibit, or page 3 of that data?
23 BY MR. AGARWAL:
24 Q. I'm asking you to look at page 3 of the
25 exhibit just so that we can explain it to the

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| <p style="text-align: right;">Page 57</p> <p>1 Hearing Examiner.</p> <p>2 MR. CAMACHO: If I may, Mr. Agarwal.</p> <p>3 I would just like to point out that counsel --</p> <p>4 maybe it might be helpful for future for your</p> <p>5 questioning you might refer to -- counsel is referring</p> <p>6 to appellant's binder and whatever number it is.</p> <p>7 So we have two binders, Madam Examiner. We</p> <p>8 have one that's submitted by the City.</p> <p>9 THE HEARING EXAMINER: I have it.</p> <p>10 MR. CAMACHO: We have one submitted by</p> <p>11 counsel. So, right now, counsel has been referring to</p> <p>12 his binder --</p> <p>13 THE HEARING EXAMINER: Right. Yes.</p> <p>14 MR. CAMACHO: -- i.e. appellant's binder.</p> <p>15 THE HEARING EXAMINER: Thanks for the</p> <p>16 clarification.</p> <p>17 MR. CAMACHO: Just so the record is clear.</p> <p>18 MR. AGARWAL: Thank you, your Honor. The</p> <p>19 record shall be clear, because our exhibits are</p> <p>20 numerical and theirs are by alphabet. I made reference</p> <p>21 to Exhibit 10, page 3.</p> <p>22 BY MR. AGARWAL:</p> <p>23 Q. All right. At the bottom of that page, you</p> <p>24 will see contract amount, business partner, Tam, Johnny,</p> <p>25 right? Do you see that? And then you see kind of</p> | <p style="text-align: right;">Page 59</p> <p>1 Q. Okay. And then underneath there, you see a</p> <p>2 column of the kilowatt hours used, right, per day,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And there are periods there, there is</p> <p>6 billing periods there. So if you look on the next page</p> <p>7 over and you see August 2017, and then it goes month by</p> <p>8 month all the way to, it looks like, roughly</p> <p>9 October 2018. Do you see that?</p> <p>10 MS. BICKEL: You are referring to page 3 of</p> <p>11 Exhibit 10 now?</p> <p>12 MR. AGARWAL: Yes.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. AGARWAL:</p> <p>15 Q. Isn't it correct that the electricity usage,</p> <p>16 the high electricity usage, that you talked about did</p> <p>17 not start immediately after my client rented the</p> <p>18 property to Mr. Lin?</p> <p>19 MS. BICKEL: I'm just going to object that the</p> <p>20 document speaks for itself. This doesn't take an</p> <p>21 interpretation by the officer.</p> <p>22 THE HEARING EXAMINER: It is included in the</p> <p>23 City's packet. It is included in the City's packet as</p> <p>24 well under Exhibit F.</p> <p>25 MS. BICKEL: Do you need a response from the</p> |
| <p style="text-align: right;">Page 58</p> <p>1 months and years. And, basically, it shows you how much</p> <p>2 kilowatts per day was used, right?</p> <p>3 A. Yes.</p> <p>4 Q. And Tam, Johnny was actually the owner of the</p> <p>5 property all the way up to kind of 6/30/2017, or at</p> <p>6 least a subscriber to this account, right?</p> <p>7 A. Yes.</p> <p>8 Q. And then the next person up is Zuhu Wang, who</p> <p>9 is sitting behind me and is my client; and he had the</p> <p>10 electrical account in his, after he purchased the</p> <p>11 property, for a few short months; is that right?</p> <p>12 A. I see his name on the sheet, yes.</p> <p>13 Q. Okay. Do you agree with me that that's a</p> <p>14 proper interpretation of the data?</p> <p>15 A. It could be interpreted multiple ways.</p> <p>16 Q. How would you interpret it?</p> <p>17 A. It's not my job to interpret this information.</p> <p>18 This is historical data that I obtained to be submitted</p> <p>19 for this hearing.</p> <p>20 Q. Okay. And then if you look back one page, you</p> <p>21 will see from -- you see You Kai Lin as the</p> <p>22 electricity --</p> <p>23 A. You are referring to page 1?</p> <p>24 Q. Page 2 of Exhibit 10.</p> <p>25 A. Page 2. I see You Kai Lin.</p> | <p style="text-align: right;">Page 60</p> <p>1 Officer on that, Madam Examiner?</p> <p>2 THE HEARING EXAMINER: I do not.</p> <p>3 BY MR. AGARWAL:</p> <p>4 Q. Do you agree with me that it did not start</p> <p>5 until sometime in April of 2018?</p> <p>6 MS. BICKEL: Same objection, Madam Examiner.</p> <p>7 The document speaks for itself.</p> <p>8 BY MR. AGARWAL:</p> <p>9 Q. Do you agree with me that Sacramento has data</p> <p>10 showing abnormal usage for this property going all the</p> <p>11 way back to March of 2018?</p> <p>12 MS. BICKEL: Same objections.</p> <p>13 MS. PATTERSON: You know, sir, you can go</p> <p>14 ahead and make your statements and you can explain to</p> <p>15 the Hearing Examiner what this shows, which is on April,</p> <p>16 the amount of electricity had increased. You don't have</p> <p>17 to ask the Officer to confirm that. You can go ahead</p> <p>18 and testify and point to this, and then explain to her</p> <p>19 why this is pertinent in terms of the name of the</p> <p>20 subscriber was, the renter.</p> <p>21 So it might help, because --</p> <p>22 MR. AGARWAL: Thank you. That's helpful.</p> <p>23 BY MR. AGARWAL:</p> <p>24 Q. The penalty that you reviewed that was issued,</p> <p>25 accuses my client of violating section 8.13.040 (sic).</p> |

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| <p style="text-align: right;">Page 61</p> <p>1 It provides, essentially, that no person shall cultivate 2 cannabis. 3 Do you have any evidence that my client 4 planted any of the cannabis? 5 THE HEARING EXAMINER: What was the last word? 6 I'm sorry? 7 BY MR. AGARWAL: 8 Q. Planted any of the cannabis at that property. 9 THE HEARING EXAMINER: Oh, okay. Thank you. 10 MS. BICKEL: I'm just going to object that 11 that's not relevant to the issuance of the penalty, but 12 Officer Pitts can respond to that. 13 THE WITNESS: No, I do not. 14 BY MR. AGARWAL: 15 Q. Do you have any evidence that they were 16 involved in any way in harvesting any of the cannabis at 17 the property? 18 MS. BICKEL: Same objection, then he can 19 answer. 20 THE HEARING EXAMINER: Sustained. 21 MR. AGARWAL: Your Honor, we have been told 22 that the objections are not allowed, and now we have 23 kind of this rote kind of examination of -- 24 THE HEARING EXAMINER: The issue is? 25 MS. PATTERSON: Sir, you have put on record</p> | <p style="text-align: right;">Page 63</p> <p>1 MS. BICKEL: Same objection, but he can answer 2 it. 3 THE WITNESS: No. 4 BY MR. AGARWAL: 5 Q. Do you have any evidence that they were 6 involved in any way in processing any of the cannabis 7 that was at that property? 8 MS. BICKEL: Same objection, but he may 9 answer. 10 THE WITNESS: No. 11 BY MR. AGARWAL: 12 Q. Do you have any evidence that they actually 13 grew any of the -- grew any cannabis at that property? 14 MS. BICKEL: Same objection, but he may 15 answer. 16 THE WITNESS: No. 17 BY MR. AGARWAL: 18 Q. Do you have any evidence that they in any way 19 watered any of the cannabis plants at that property? 20 MS. BICKEL: Same objection, but he may 21 answer. 22 THE WITNESS: No. 23 MS. PATTERSON: It might be helpful if you 24 listed all of the things you want to say so that we 25 don't have to ask every single question with a</p> |
| <p style="text-align: right;">Page 62</p> <p>1 that you objected to the declarations, which is fine. 2 They can put on record that they are objecting to your 3 questioning. But they said they would allow the Officer 4 to go ahead and answer. So they're just putting it on 5 the record. 6 MR. AGARWAL: The objection was sustained. 7 MS. PATTERSON: Well, I know. But she 8 sustained it before she heard that they will -- unless 9 I'm misstating it, that even though she said she 10 objected, she still would allow the Officer to answer. 11 So we will get this clarified as to whether 12 when she does have to rule or not. 13 THE HEARING EXAMINER: Let's hear the 14 evidence. 15 BY MR. AGARWAL: 16 Q. Do you have any evidence, Officer, that the 17 appellant, my client, had anything to do with harvesting 18 any cannabis at that property? 19 MS. BICKEL: Same objection, but he can 20 answer. 21 THE WITNESS: No, sir. 22 BY MR. AGARWAL: 23 Q. Do you have any evidence that they were 24 involved in drying any cannabis from that -- at that 25 property?</p> | <p style="text-align: right;">Page 64</p> <p>1 different -- because it's all related. 2 MR. AGARWAL: Thank you. 3 MS. PATTERSON: So you can do a string, if you 4 want. 5 BY MR. AGARWAL: 6 Q. Do you have any evidence that they permitted 7 the tenant to grow cannabis? 8 MS. BICKEL: Is that all of your list, or is 9 there going to be more that you are going to ask? 10 Because I think what -- 11 MS. PATTERSON: We can't hear you, Melissa. 12 MS. BICKEL: Oh. Is that going to be all of 13 the questions that you are going to ask about whether or 14 not your client did something? Because I think what the 15 instruction is is to provide all of your questions so 16 that I can object once and he can answer once. 17 MR. AGARWAL: I'll grant to Ms. Bickel a 18 continuing objection so that we don't have to be 19 interrupted and get through this faster. 20 MS. BICKEL: Thank you. 21 You can answer. 22 THE WITNESS: No. 23 BY MR. AGARWAL: 24 Q. Do you have any evidence that they in any way 25 aided the tenant?</p> |

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1 MS. PATTERSON: Aided in what? Aided what?
2 BY MR. AGARWAL:
3 Q. The growth of the cannabis.
4 A. No.
5 Q. Do you have any evidence that they in any way
6 abetted the growing, planting, harvesting, drying, or
7 processing of the cannabis at 8651 Forte Street?
8 A. No.
9 Q. Do you have any evidence that they in any way
10 concealed the growth of the planting, harvesting,
11 drying, processing?
12 A. No.
13 Q. Do you have any evidence that they in any way
14 caused it to happen?
15 A. No.
16 Q. When you arrived at that house, you did see
17 various things, which I think ultimately were code
18 violations by way of building codes, electrical panels,
19 those kinds of things, right?
20 A. I will not testify as to the code violations
21 or building violations, et cetera.
22 I can testify to my criminal investigation
23 that I have conducted on this house.
24 Q. When you showed up, you did see various doors
25 and things, electrical cable in there, right?

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1 A. Correct.
2 Q. Right. And is it correct that you didn't --
3 you have no information or evidence that my client in
4 any way participated, aided, abetted, concealed, caused,
5 or maintained any of those violations?
6 A. No.
7 Q. When you did the surveillance on
8 September 19th, I think the report notes the blinds were
9 down and there was a white Honda --
10 (The Reporter requested clarification.)
11 BY MR. AGARWAL:
12 Q. When you conducted surveillance on
13 September 19th, 2018, the blinds were down and there was
14 a white Honda parked outside.
15 Did you otherwise think it looked like a
16 normal house on that day from the outside?
17 A. I observed what I observed, and that's about
18 it on that one.
19 Q. Okay. So that's what you observed: Blinds
20 were down and white Honda is what was recorded.
21 A. Yes.
22 MS. BICKEL: Asked and answered.
23 BY MR. AGARWAL:
24 Q. The tenant, he was arrested; is that right?
25 A. Yes.

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1 Q. What was he convicted of?
2 MR. CAMACHO: This is Emilio Camacho, Deputy
3 City Attorney, on behalf of the Sacramento Police
4 Department.
5 We will just raise an objection that the
6 criminal non-related -- a criminal case for a defendant
7 who is not here and we haven't kept the status of,
8 because the City Attorney does not, you know, do these
9 criminal prosecutions -- that's the Sacramento DA -- we
10 just don't -- it's not relevant to whether the ordinance
11 was violated or not.
12 MS. BICKEL: If you can answer it.
13 BY MR. AGARWAL:
14 Q. Officer?
15 A. I did not follow his conviction.
16 Q. Were you aware that he was --
17 A. I did not follow whether he was convicted or
18 anything like that.
19 Q. You didn't issue him a penalty; is that
20 correct?
21 A. We arrested him.
22 Q. You did not issue him a penalty, correct?
23 A. No.
24 Q. Were you aware that he was fined nothing in
25 his criminal case?

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1 A. No.
2 Q. Are you aware that he was simply given three
3 years probation and two months on a work order?
4 MS. BICKEL: Can I have a standing objection
5 as to relevance?
6 MS. PATTERSON: You can testify to that
7 information. We can accept that information from you.
8 We don't have to have the Officer verify what you are
9 stating, because, again, we accept hearsay and we accept
10 your representations, so --
11 BY MR. AGARWAL:
12 Q. You testified that you had some information
13 that the tenants had previously been associated with
14 something like Dixie Road or Louie Dixie Road; is that
15 right? 77262 Dixie Road Law (sic), or whatever?
16 A. The tenant was contacted at that residence.
17 Q. Contacted meant that you found him there
18 watering cannabis plants, right?
19 A. Let me check my notes. I can reread exactly
20 what I stated before, if you would like.
21 Q. Well, we have your testimony.
22 You have nothing else to offer on that, right?
23 A. No.
24 Q. Now, that was in 2016; is that right?
25 A. Yes.

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| <p style="text-align: right;">Page 69</p> <p>1 Q. Some years before.</p> <p>2 And the contact was only in Sacramento Police</p> <p>3 Department's database, right? It was not put out in any</p> <p>4 way or given to the California criminal justice system</p> <p>5 for recording on background check information, right?</p> <p>6 MS. BICKEL: If you can answer.</p> <p>7 THE WITNESS: I cannot answer to that.</p> <p>8 BY MR. AGARWAL:</p> <p>9 Q. Where was the information kept?</p> <p>10 A. I found it in the Sacramento Police</p> <p>11 Department's database.</p> <p>12 Q. Anywhere else?</p> <p>13 A. I told you where I found it, in the Sacramento</p> <p>14 Police Department's database.</p> <p>15 Q. Okay. And that property, that wasn't owned by</p> <p>16 my client, was it? Do you have any information that</p> <p>17 that --</p> <p>18 A. No.</p> <p>19 Q. -- property in 2016 had anything to do with my</p> <p>20 client?</p> <p>21 A. I have no information on that besides what I</p> <p>22 stated earlier.</p> <p>23 Q. Do you have any information that it had</p> <p>24 anything to do with the property manager that's sitting</p> <p>25 here and managed the property for 8651 Forte Street?</p> | <p style="text-align: right;">Page 71</p> <p>1 questions for you.</p> <p>2 In this matter, you weren't actually the one</p> <p>3 that issued the violation; is that correct?</p> <p>4 A. Correct. I was on-scene, but I was not the</p> <p>5 one that issued it.</p> <p>6 Q. And Mr. Agarwal went through a list of</p> <p>7 questions for you about basically whether or not the</p> <p>8 tenant was involved -- I mean, excuse me -- the property</p> <p>9 owner was involved, the property owner knew, the</p> <p>10 property owner sold.</p> <p>11 Based on your training and experience and</p> <p>12 understanding of the ordinance, does any of that matter</p> <p>13 when you are determining if a violation of the ordinance</p> <p>14 occurred?</p> <p>15 MR. AGARWAL: I object. It calls for a legal</p> <p>16 conclusion.</p> <p>17 MS. BICKEL: I can lay some foundation, if you</p> <p>18 would like.</p> <p>19 THE HEARING EXAMINER: I would like that, yes.</p> <p>20 Thank you.</p> <p>21 BY MS. BICKEL:</p> <p>22 Q. Have you issued these penalties personally</p> <p>23 before on the 20 you discussed?</p> <p>24 A. As far as personally, can you -- can you</p> <p>25 clarify for me?</p> |
| <p style="text-align: right;">Page 70</p> <p>1 A. Can you restate that, please?</p> <p>2 Q. With respect to the prior contact with the</p> <p>3 tenant, do you have any information that the property he</p> <p>4 was at in 2016 had anything to do with the property</p> <p>5 manager for 8651 Forte Street?</p> <p>6 A. No.</p> <p>7 Q. You testified a little bit to your experience</p> <p>8 about sort of these grow houses.</p> <p>9 Do you ever give a penalty to the tenant in</p> <p>10 situations where the tenant is leasing a property?</p> <p>11 A. I have not personally.</p> <p>12 Q. And how many have you done?</p> <p>13 A. To date or at the time?</p> <p>14 Q. To date.</p> <p>15 A. No less than, I would say, 20.</p> <p>16 MR. AGARWAL: Okay. Thank you, Officer.</p> <p>17 MS. BICKEL: Madam Examiner, this is</p> <p>18 Melissa Bickel. I just have a few follow-up questions</p> <p>19 for the Officer.</p> <p>20 THE HEARING EXAMINER: Thank you.</p> <p>21 REDIRECT EXAMINATION</p> <p>22 BY MS. BICKEL:</p> <p>23 Q. Melissa Bickel for the City of Sacramento,</p> <p>24 Sacramento Police Department.</p> <p>25 Officer Pitts, I just have a few follow-up</p> | <p style="text-align: right;">Page 72</p> <p>1 Q. Are you the one that actually physically</p> <p>2 issued the penalty?</p> <p>3 A. For some of them, yes, and some, no.</p> <p>4 Q. Okay. Do you understand what the code</p> <p>5 sections these penalties are -- these penalties are</p> <p>6 based upon -- are based upon?</p> <p>7 A. Yes.</p> <p>8 Q. And do you understand the requirements to</p> <p>9 violate those code sections?</p> <p>10 A. Yes.</p> <p>11 Q. So then I will go back to my last question.</p> <p>12 When you are determining if a violation of the</p> <p>13 respective code sections has occurred, does it matter</p> <p>14 that the owner wasn't involved, didn't know, et cetera?</p> <p>15 A. It does not.</p> <p>16 Q. Why not, in your professional opinion?</p> <p>17 MR. AGARWAL: Object, your Honor. May I have</p> <p>18 a continuing objection to this line of questioning?</p> <p>19 THE HEARING EXAMINER: Objection noted, but</p> <p>20 please continue.</p> <p>21 THE WITNESS: Sorry. Can you state that over</p> <p>22 again, please?</p> <p>23 BY MS. BICKEL:</p> <p>24 Q. I just wanted to know, in your professional</p> <p>25 opinion in issuing or being involved in at least 20 of</p> |

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| <p style="text-align: right;">Page 73</p> <p>1 these and issuing some of the penalties yourself, why</p> <p>2 does it not matter if there is involvement or knowledge</p> <p>3 in issuing a violation?</p> <p>4 MS. PATTERSON: By the property owner.</p> <p>5 MS. BICKEL: Yeah, the property manager -- or</p> <p>6 excuse me -- the property owner.</p> <p>7 THE WITNESS: Well, they are the ones that are</p> <p>8 involved with the property. They have a responsibility</p> <p>9 for that property, as well as making sure that it's not</p> <p>10 causing a public nuisance to the individuals around them</p> <p>11 or putting potential neighbors in jeopardy of being</p> <p>12 potential mistaken targets of being a marijuana grow</p> <p>13 house.</p> <p>14 Also, these residents, residential houses,</p> <p>15 that are involved in this illegal activity, it brings</p> <p>16 criminal elements to that part of -- to the residential</p> <p>17 area that they live in.</p> <p>18 And so by owning the property, the City, per</p> <p>19 the City Code, has stated out that they are the ones</p> <p>20 responsible for these fines and they are responsible for</p> <p>21 making sure that the houses are not a nuisance in the</p> <p>22 neighborhood.</p> <p>23 BY MS. BICKEL:</p> <p>24 Q. So is it a fair statement that a property</p> <p>25 owner remains responsible for the property even if they</p> | <p style="text-align: right;">Page 75</p> <p>1 discuss the SMUD information that you received. I</p> <p>2 believe that's what you were referring to earlier as the</p> <p>3 electronic information that you received?</p> <p>4 A. Yes.</p> <p>5 Q. Is all of the information regarding the</p> <p>6 electronic information you received stated on page 14?</p> <p>7 A. The bottom of page 13, going on to the top</p> <p>8 paragraph of page 14, is the information that I would</p> <p>9 have received to conduct my initial investigation into</p> <p>10 the house, not the historical data that I received that</p> <p>11 was presented earlier on in the hearing.</p> <p>12 Q. And then can you explain to the Court why the</p> <p>13 SMUD data is important in your investigation and in</p> <p>14 obtaining a search warrant?</p> <p>15 A. SMUD data -- can you state that one more time,</p> <p>16 please?</p> <p>17 Q. So I want -- you indicated earlier that there</p> <p>18 is several ways that you try to determine if a house is</p> <p>19 a grow house, and SMUD data is one of them.</p> <p>20 Why is SMUD data important in determining if</p> <p>21 you want to obtain a search warrant on a house to</p> <p>22 determine if it's a grow house or not?</p> <p>23 A. Power usage alone is not a pure indication of</p> <p>24 a marijuana grow house, but the cycles and the manner</p> <p>25 that it's being consumed, 12-hour increments, indicate a</p> |
| <p style="text-align: right;">Page 74</p> <p>1 rent it to somebody else?</p> <p>2 MR. AGARWAL: Objection. Legal testimony.</p> <p>3 Legal conclusion. It's not factual information.</p> <p>4 THE HEARING EXAMINER: I think we are going to</p> <p>5 hear this one out though, because we are here today for</p> <p>6 purposes of weighing evidence against the Sacramento</p> <p>7 City Code, and this is a clarification of an officer's</p> <p>8 understanding.</p> <p>9 MS. PATTERSON: Actually, in her opening</p> <p>10 statement, she did reference certain state laws</p> <p>11 regarding property ownership, so the foundation is</p> <p>12 there, I believe.</p> <p>13 BY MS. BICKEL:</p> <p>14 Q. Do you need me to repeat it?</p> <p>15 A. Yes, please.</p> <p>16 Q. I'm going to try and repeat it verbatim.</p> <p>17 Is it a fair statement that a property owner</p> <p>18 remains responsible for their property with regard to</p> <p>19 the illegal cannabis cultivation operations even though</p> <p>20 they lease it to somebody else?</p> <p>21 A. Yes.</p> <p>22 Q. And then one other clarification, if you can</p> <p>23 refer to Exhibit C in front of you, in the binder in</p> <p>24 front of you, which is the police report.</p> <p>25 And if you look at page 14 of 36 in there, you</p> | <p style="text-align: right;">Page 76</p> <p>1 growth pattern that is common among cultivators.</p> <p>2 And so with that information, and</p> <p>3 understanding a little bit more about not only the high</p> <p>4 power usage, but then the time frame that the power is</p> <p>5 being consumed, just gives us a little bit more</p> <p>6 information of what kind of house we're dealing with,</p> <p>7 and it kind of takes out the matters of if it's -- yeah,</p> <p>8 that's about it.</p> <p>9 Q. And how many search warrants have you</p> <p>10 personally obtained based solely on the SMUD data?</p> <p>11 A. I have authored no less than 20 search</p> <p>12 warrants myself.</p> <p>13 Q. And were they solely based on SMUD data or</p> <p>14 were they based on other items?</p> <p>15 A. SMUD data, prior history with the tenant, with</p> <p>16 the owners. Some of this information has also come off</p> <p>17 of just going to houses and calls for service where a</p> <p>18 house is broken into and marijuana plants were observed</p> <p>19 inside the house, and then we follow up with a search</p> <p>20 warrant to go inside the house to obtain the leftover</p> <p>21 marijuana that was located inside the house.</p> <p>22 So those are some -- and then in addition to</p> <p>23 that, some other things, in addition to SMUD data we</p> <p>24 use, would be neighborhood complaints who smell the odor</p> <p>25 of unburnt marijuana coming from a specific house, or it</p> |

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1 could be odd times that individuals are coming in and
2 out of the house and you don't see them at all, an
3 unkept yard. There is a multitude of things that we
4 will observe or try to use in order to either negate or
5 to substantiate our investigation.
6 Q. Is SMUD data -- regardless of how you find out
7 about the house, is SMUD data something that the police
8 department always obtains as part of their
9 investigation?
10 A. It is.
11 Q. Why?
12 A. It's a very useful tool of allowing us to
13 understand if a house is involved, is potentially
14 involved, in criminal activity or not.
15 MS. BICKEL: And I would also like to refer
16 the Hearing Examiner to Elizabeth McDowell's
17 declaration, which does indicate in there what a normal
18 house would use versus what these grow houses are using
19 to help understand the enormous amount of power that is
20 being used.
21 We have no further questions. Thank you.
22 MR. AGARWAL: May I? Thank you.
23 THE HEARING EXAMINER: Yes. Absolutely.
24
25

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1 RECROSS-EXAMINATION
2 BY MR. AGARWAL:
3 Q. The SMUD data, Officer, is not available to
4 the landlord, right?
5 When a house is rented and the electric bill
6 is in the name of the renter, the SMUD data is not
7 available to the landlord; is that correct?
8 A. To my understanding, no.
9 Q. And am I correct, on this occasion, nobody at
10 SMUD ever sent to the landlord, to your knowledge, any
11 electric data about high usage to the owner of the
12 property?
13 MS. BICKEL: I'll just have a standing
14 objection to this line of questioning on relevance
15 again.
16 He can answer, if he knows the answer.
17 THE WITNESS: I am not sure if anyone sent any
18 information.
19 BY MR. AGARWAL:
20 Q. You are not aware of any information sent.
21 A. I am not aware, yes.
22 Q. And you didn't send any, right?
23 A. No.
24 Q. To the owners?
25 A. Right.

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1 Q. Now, you testified a little bit about
2 provisions, your understanding of the law and
3 everything, and the Sacramento code.
4 You are also aware of the United States
5 Constitution, right?
6 A. Yes.
7 Q. And you got some training at the police
8 academy as to some of the requirements of the United
9 States Constitution, right?
10 MS. BICKEL: I am just going to object,
11 because this -- the Hearing Examiner has no authority to
12 determine constitutional issues.
13 MR. AGARWAL: Your Honor, my question will be
14 very clear in a minute.
15 THE HEARING EXAMINER: I'll let you ask your
16 question, but, again, we are here dealing with code
17 issues for an administrative hearing.
18 MR. AGARWAL: And it will be crystal clear why
19 I'm asking.
20 THE HEARING EXAMINER: Okay.
21 THE WITNESS: I have knowledge.
22 BY MR. AGARWAL:
23 Q. You understand there is something called due
24 process, right?
25 A. Yes.

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1 Q. And in the context of the work you do, you
2 have to give notice of what the code provisions are that
3 you are asserting somebody has violated, right?
4 A. I cannot answer to that.
5 Q. You don't know if that's what the law
6 requires.
7 A. Okay.
8 Q. All right. Now, would you look at Exhibit 1
9 of our document?
10 Now, you testified -- before you do that, you
11 testified -- before you show him that, you testified
12 there are code provisions, and there are two code
13 provisions, right, is that right, that were referenced
14 in the opening slide show, 8.132.030 and 8.132.040; is
15 that correct?
16 A. Yes, sir.
17 Q. On what basis was the administrative penalty
18 issued?
19 MS. BICKEL: I'm just going to object that he
20 already said he didn't author this document and the
21 document speaks for itself.
22 So I would request that he do not -- there is
23 the officer that --
24 THE HEARING EXAMINER: The line of questioning
25 should not be directed to the Officer.

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1 MS. PATTERSON: Right.
2 MS. BICKEL: Correct. Officer Kirtlan --
3 MS. PATTERSON: He didn't sign this.
4 BY MR. AGARWAL:
5 Q. Did you see this administrative penalty before
6 it was given to whoever, City staff, for service?
7 A. Yes.
8 Q. On what basis was the penalty issued?
9 MS. BICKEL: I'm just going to object on the
10 same basis. He did not issue it. He did not draft it.
11 That officer is here and he can ask that officer that
12 line of questioning.
13 THE HEARING EXAMINER: Okay.
14 MR. AGARWAL: I'm entitled to an answer, if he
15 saw it.
16 MS. BICKEL: I'm going to instruct him not to
17 answer.
18 MS. PATTERSON: I think that code section is
19 stated on the penalty. It's there. That is the code
20 section that's referenced.
21 MR. AGARWAL: I have no further questions.
22 MS. BICKEL: You can acknowledge that that is
23 the code section that's on there.
24 THE WITNESS: This is, yes. The one that is
25 on there is the one that's written on there.

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1 MR. AGARWAL: Thank you very much,
2 Officer Pitts.
3 Your Honor, we are ready to proceed with the
4 next witness.
5 MS. PATTERSON: Who do you want to call?
6 MR. AGARWAL: We will call Mr. Hin.
7 MS. PATTERSON: He needs to be sworn in.
8 MS. BICKEL: Can the Officer be excused?
9 MR. AGARWAL: We are done with you. Yes.
10 Thank you very much.
11 THE WITNESS: Thank you, sir.
12 THE HEARING EXAMINER: Thank you, Officer.
13 MR. AGARWAL: I understand Officer Kirtlan has
14 not been proffered --
15 (The Reporter requested clarification.)
16 MR. AGARWAL: Kirtlan.
17 MS. PATTERSON: He's in the back.
18 THE HEARING EXAMINER: He's right there.
19 MR. AGARWAL: I understand.
20 Officer Kirtlan has not been proffered by the
21 City Attorney in their case-in-chief. We will not need
22 him further since the documents are in and Officer Pitts
23 provided the information that we need at this time, so
24 we would ask that he be released --
25 THE HEARING EXAMINER: Thank you.

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1 MR. AGARWAL: -- so he can go and do his job.
2 MS. PATTERSON: Okay. Your witness, can you
3 please come forward and --
4 (Interruption by the Reporter.)
5 MS. BICKEL: Since Mr. Agarwal is not going to
6 call him, we will call him as a witness then.
7 MR. AGARWAL: Well, their case-in-chief is
8 done.
9 MS. PATTERSON: They have the right to bring
10 back witnesses or new witnesses to counter what --
11 MR. AGARWAL: All right. Then we would ask
12 that Officer Pitts remain, because Mr. Kirtlan may say
13 something Officer Pitts needs to clarify.
14 MR. CAMACHO: That would be fine from us. No
15 objection on Officer Pitts remaining.
16 THE HEARING EXAMINER: Okay. That's fine.
17 MS. PATTERSON: The court reporter needs a
18 break --
19 THE HEARING EXAMINER: Yeah.
20 MS. PATTERSON: -- so as people are coming
21 forward, we will let her have a break for five minutes.
22 MS. BICKEL: I was going to ask for that as
23 well, a five-minute break, please.
24 THE HEARING EXAMINER: We are officially on
25 break, and we will call it back to order -- at what

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1 time? -- in five minutes.
2 (A break was taken.)
3 THE HEARING EXAMINER: We're going to call
4 back into session. Do we have all parties present that
5 need to be in the room, witnesses and so on?
6 MS. BICKEL: His clients are not back.
7 THE HEARING EXAMINER: We'll hold tight.
8 MR. AGARWAL: They're on their way, your
9 Honor.
10 THE HEARING EXAMINER: We will just wait until
11 they get here.
12 Mr. Agarwal, we'll defer to you to say if your
13 clients and everyone is back in the room that we need
14 before we start.
15 MR. AGARWAL: Yes, your Honor.
16 THE HEARING EXAMINER: Okay. Thank you.
17 MR. AGARWAL: My co-counsel,
18 Ms. Rachel Chanin, had to take a call. She will not be
19 coming back for a little bit.
20 THE HEARING EXAMINER: Okay. Thank you.
21 MR. AGARWAL: The record should reflect that.
22 THE HEARING EXAMINER: All right.
23 MS. BICKEL: Thank you. Melissa Bickel again
24 for the City of Sacramento, Sacramento Police
25 Department. We have Sergeant Kirtlan here with us now

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|---|--|
| <p style="text-align: right;">Page 85</p> <p>1 as our next witness.</p> <p>2 DIRECT EXAMINATION</p> <p>3 BY MS. BICKEL:</p> <p>4 Q. Sergeant Kirtlan, you issued the penalty in</p> <p>5 this matter, did you not?</p> <p>6 A. Correct.</p> <p>7 Q. And, real quickly, what is your present</p> <p>8 position with the Sacramento Police Department?</p> <p>9 A. I am a sergeant assigned to operations. I</p> <p>10 supervise a patrol team.</p> <p>11 Q. What was your position at the time you issued</p> <p>12 the penalty?</p> <p>13 A. I was a supervisor of the South Area Marijuana</p> <p>14 Compliance Team.</p> <p>15 Q. What is the South Area Marijuana Compliance</p> <p>16 Team?</p> <p>17 A. At the time, we consisted of four officers and</p> <p>18 one sergeant working out of the South Station in</p> <p>19 Sacramento.</p> <p>20 Q. Are there other units that also do the same</p> <p>21 thing in other areas of Sacramento? At the time, were</p> <p>22 there other units?</p> <p>23 A. Yes, there were.</p> <p>24 Q. How many?</p> <p>25 A. Two.</p> | <p style="text-align: right;">Page 87</p> <p>1 properties is when we got serious to develop these</p> <p>2 teams.</p> <p>3 Since these teams, these officers, including</p> <p>4 myself, risk our lives to enter these properties to make</p> <p>5 the home safe to remove the cannabis and other items,</p> <p>6 guns, et cetera, from these properties to make the</p> <p>7 neighborhood safer, word has gotten out, people have</p> <p>8 been arrested, people have been prosecuted, and</p> <p>9 homeowners have been held accountable for causing these</p> <p>10 issues within the City of Sacramento.</p> <p>11 Therefore, there has been a decline, albeit</p> <p>12 slowly, of these properties within the City of</p> <p>13 Sacramento.</p> <p>14 Q. Do you have an estimate as to the percentage</p> <p>15 of -- let me ask you a question.</p> <p>16 How many houses, to your knowledge, have been</p> <p>17 identified as illegal cannabis cultivation operations</p> <p>18 since this went into force?</p> <p>19 MR. AGARWAL: Object to the relevance of this</p> <p>20 line of questioning.</p> <p>21 MS. BICKEL: Holding -- Officer -- excuse</p> <p>22 me -- Sergeant Kirtlan just said that not only the</p> <p>23 enforcement efforts of the police department, but</p> <p>24 holding property owners accountable have both added to</p> <p>25 the decline in these homes; and I'm trying to understand</p> |
| <p style="text-align: right;">Page 86</p> <p>1 Q. Okay. How about presently?</p> <p>2 A. Presently, there are still three teams</p> <p>3 citywide, but with less manpower.</p> <p>4 Q. Okay. And why is there less manpower?</p> <p>5 A. The police department is struggling to hire</p> <p>6 and retain employees.</p> <p>7 Q. How long have the marijuana compliance teams</p> <p>8 been in the force?</p> <p>9 A. Since approximately January of 2018.</p> <p>10 Q. And in that time frame until now, have you</p> <p>11 seen any type of decline in the identified amount of</p> <p>12 cannabis properties?</p> <p>13 A. Yes.</p> <p>14 Q. And do you, in your professional opinion,</p> <p>15 believe that the efforts of the Sacramento Police</p> <p>16 Department have any -- had any impact on that decline?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Why?</p> <p>19 A. The lack of enforcement of these type of</p> <p>20 properties went on for years and years, which led to an</p> <p>21 increase in violent crimes.</p> <p>22 Once we, as a police department, not me</p> <p>23 personally, but once the City Council and the leaders of</p> <p>24 the police department realized the problem that occurred</p> <p>25 from the rise in violence associated with these</p> | <p style="text-align: right;">Page 88</p> <p>1 how many penalties we have issued to date to put that</p> <p>2 into perspective.</p> <p>3 THE HEARING EXAMINER: I am going to go ahead</p> <p>4 and allow that, because I believe it's relevant.</p> <p>5 THE WITNESS: My understanding is there has</p> <p>6 been hundreds and hundreds of homes. Probably at the</p> <p>7 height, in early 2018 to mid 2018 when we started taking</p> <p>8 this serious, there were probably 500 houses citywide</p> <p>9 that were identified.</p> <p>10 To date, I don't know the exact number, but</p> <p>11 there have been several hundred administrative penalties</p> <p>12 issued relating to what we are talking about today.</p> <p>13 BY MS. BICKEL:</p> <p>14 Q. And have you had any experience with homes</p> <p>15 themselves or property owners themselves being repeat</p> <p>16 offenders after a penalty has been issued?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. What percentage of all of the properties that</p> <p>19 you just talked about of the hundreds and hundreds are</p> <p>20 these repeat offenders?</p> <p>21 A. I would say 50 percent.</p> <p>22 Q. Are repeat offenders?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. And when I say repeat offenders, I mean the</p> <p>25 same property owners.</p> |

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1 A. Same property owners could be at the same
2 property or a different property that they own.
3 Q. So some of these property owners have multiple
4 properties that result in finding illegal cannabis
5 cultivation operations?
6 A. Yes, ma'am.
7 Q. Let's go back to the penalty itself. You
8 already indicated that you issued it.
9 And can you tell me why you put the code
10 section on that penalty that you put on there, please?
11 A. Well, as we look on the board, the PowerPoint,
12 section 8.132.040 is the basis of the penalty of .030;
13 and .040, No person shall cultivate cannabis within a
14 private residence or upon the grounds of a private
15 residence unless it is conducted in accordance with this
16 section.
17 But if we refer to .030, it says, No person
18 shall own, lease, occupy, or have charge or possession
19 of any property upon which cannabis is knowingly or
20 unknowingly being cultivated, except in accordance with
21 the following.
22 And that refers to section B of .030, which is
23 section 8.132.040. So it's the basis for the penalty
24 .4, .040.
25 Q. And do you read section .04 -- .040 in a

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1 vacuum, or does it have to be read in conjunction with
2 both .030 and .050?
3 MR. AGARWAL: Objection. Calls for legal
4 conclusion.
5 MS. BICKEL: He's the one issuing the penalty.
6 He has to understand the basis for issuance based on the
7 code sections.
8 THE HEARING EXAMINER: Go ahead.
9 THE WITNESS: The latter. It has to be read
10 in conjunction with.
11 BY MS. BICKEL:
12 Q. And did you issue the penalty at issue based
13 on the requirements of the three code sections that I
14 have discussed?
15 A. Yes, I did.
16 MS. BICKEL: Okay. No further questions.
17 THE HEARING EXAMINER: Thank you.
18 CROSS-EXAMINATION
19 BY MR. AGARWAL:
20 Q. Thank you. Officer Kirtlan, would it help
21 deter tenants from using rented properties if you fine
22 them?
23 A. Is that a question?
24 Q. Yes.
25 MS. BICKEL: I didn't actually hear your

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1 question.
2 BY MR. AGARWAL:
3 Q. In your experience, do you believe that fining
4 a tenant would deter a tenant from being a repeat
5 offender?
6 A. I follow the code, sir. I wouldn't know.
7 Q. Have you ever issued, in a case where a grow
8 house has been in a home that's been rented, have you
9 ever issued an administrative penalty to a tenant?
10 A. No.
11 Q. How many have you issued since this program
12 started?
13 A. I would say no fewer than 40.
14 Q. And isn't it correct that the code --
15 MS. BICKEL: Wait. Can you talk into the mic,
16 please?
17 THE HEARING EXAMINER: Yeah, for your
18 reporter.
19 BY MR. AGARWAL:
20 Q. And isn't it correct that the reason, the
21 reason, that the City of Sacramento PD issues it to the
22 property owner is because they can seize the property to
23 collect, whereas they don't have the right to do that
24 with a tenant? Is that right?
25 MS. BICKEL: Objection. That's a legal

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1 question that is outside the scope of this -- this is
2 Melissa Bickel. That is a legal question that is
3 outside the scope of this inquiry.
4 MR. CAMACHO: And, also, this is -- that was
5 Ms. Bickel. This is Emilio Camacho on behalf of the
6 Sacramento Police Department.
7 I would just like to point out for the record
8 that the staff, the members of the Sacramento Police
9 Department, do not engage in collections of
10 administrative penalties, therefore, it's irrelevant.
11 THE HEARING EXAMINER: It doesn't seem to --
12 MS. PATTERSON: What you are saying is the
13 Officer doesn't have knowledge to answer the question,
14 because he's not involved in the collection of
15 penalties.
16 MR. CAMACHO: Correct.
17 BY MR. AGARWAL:
18 Q. You were involved in the design of the
19 ordinance; is that correct?
20 A. That's not correct.
21 Q. Did you have discussions with Mr. Devlin about
22 the design of the ordinance prior to his proposals to
23 change the Sacramento ordinance?
24 A. No, I did not.
25 Q. Is it correct that, for a period, Sacramento

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1 was using Justice for Neighbors to try and crack down on
2 illegal grows?
3 (The Reporter requested clarification.)
4 MR. AGARWAL: Yes, JFN officers.
5 BY MR. AGARWAL:
6 Q. Is that correct?
7 A. That is correct.
8 Q. And what would they do generally, just general
9 overview description?
10 A. They would --
11 MR. CAMACHO: If I may, just for the benefit
12 of the Hearing Examiner and the benefit of the record, I
13 would like to request Officer Kirtlan to explain that
14 very specific term that may not be intuitive to the
15 members here at this proceeding and also for the Court.
16 So, Officer Kirtlan, could you, before you
17 answer counsel's question, can you describe what the JFN
18 program is?
19 THE HEARING EXAMINER: And while you are
20 answering that, could you make record, or make clear,
21 the JFN program today in relation to what's -- what
22 changes have taken place?
23 THE WITNESS: I'm probably not the best person
24 to answer this question as I've never been a JFN
25 officer, never supervised a JFN officer.

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1 But Justice for Neighbors program was a quasi
2 problem-oriented policing program, whereas we had a
3 contact officer or two per station that were responsible
4 for handling citizen complaints, blight issues that were
5 brought before the attention of either the captain or
6 the lieutenant or sergeants within the police
7 department. Those complaints would be referred to what
8 would be formerly known as a Justice for Neighbor
9 officer.
10 Those officers no longer exist by title. They
11 are now POP officers, or problem-oriented police
12 officers, who handle roughly the same scope of
13 responsibility.
14 BY MR. AGARWAL:
15 Q. And the Justice for Neighbors initiative to
16 try and deal with grow houses, I think that was -- don't
17 hold me to the time, but roughly 2016, 2017; is that
18 right?
19 A. That's correct.
20 Q. And it actually -- one of the things you do --
21 (The Reporter requested clarification.)
22 BY MR. AGARWAL:
23 Q. You would give notice or a letter notice
24 saying we have concerns about growing marijuana; is that
25 right?

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1 A. That's correct.
2 Q. And, in fact, I think you sent about a
3 thousand letters out; is that right?
4 A. That's correct.
5 Q. And about 600 people actually stopped, right,
6 stopped growing because of the letters, right?
7 A. I know some did and some did not.
8 Q. And but, eventually, that program was
9 dismantled because you didn't have funding. The JFN
10 officers were pulled away from other things. There
11 wasn't funding to put other people back in, right?
12 A. I don't get into funding issues.
13 Q. You testified about having a bunch of other
14 people that you have sort of done these grow houses
15 with.
16 In many cases, it is, in fact, repeat
17 offenders, right? The landlord has multiple properties,
18 for instance, that are being used as grow houses, right?
19 A. I guess I don't understand your question.
20 Q. There are instances where illegal grows are
21 being conducted at properties, multiple properties, that
22 are in some way connected to a specific landlord, right?
23 A. Correct.
24 Q. That's not the case here; is that right?
25 A. It's not the case. As far as I know, we don't

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1 research houses outside of the City of Sacramento
2 limits.
3 Q. As far as you know, you are not aware of any
4 Sacramento grow house other than the 8651 associated
5 with my client, right?
6 A. Correct.
7 Q. And am I correct that you are not aware of --
8 let me step back.
9 (Interruption by the Reporter.)
10 THE HEARING EXAMINER: Monty, she can't get
11 that down.
12 BY MR. AGARWAL:
13 Q. You talked about repeat offenders, right?
14 A. I have.
15 Q. My client is not a repeat offender in any way,
16 is he?
17 A. Not to my knowledge.
18 Q. What does the code require by way of, to your
19 knowledge, how often inspections are to be done by an
20 owner of a rented property?
21 A. What was that? I don't understand your
22 question.
23 MS. BICKEL: Is this a Rental Housing
24 Inspection Program question?
25 MR. AGARWAL: No, it is not.

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1 MS. BICKEL: Okay.
2 BY MR. AGARWAL:
3 Q. What do you understand the Sacramento City
4 Code requires by way of inspections of a rented property
5 by an owner?
6 A. I have no idea.
7 Q. Okay. Do you have any particular -- well, you
8 don't know what the code says about what the obligations
9 are for an owner of a property to inspect, right?
10 A. I do not.
11 Q. Were you involved in the criminal case of
12 You Kai Lin in any way?
13 A. As far as I approved the search warrant prior
14 to going to the judge, I had issued the penalty, I
15 helped clean out the house, I supervised the overall
16 operation.
17 Q. After that, he was arrested. He was arrested
18 by you, actually, right, or you and some of the other
19 officers there that day?
20 A. Yeah, he was arrested there.
21 Q. And we have your body cam footage from that
22 day.
23 A. Perfect.
24 Q. And did you book him?
25 A. No, I did not.

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1 Q. Okay. On the booking -- arrest, arrest
2 information, you didn't find that there was any -- is it
3 correct Sacramento PD didn't find any gang affiliation
4 for Mr. Lin?
5 MS. BICKEL: Objection. We are getting way
6 beyond the relevance and scope of this hearing. The
7 criminal case is not relevant to the issuance of the
8 penalty.
9 THE HEARING EXAMINER: I am going to remind
10 you that we are having a code hearing for illegal
11 marijuana grow, so --
12 MR. CAMACHO: Again, this is Emilio Camacho.
13 That was Ms. Bickel.
14 Just as I did before, for purposes of this
15 hearing, I will state the same thing that I stated when
16 Officer Pitts was testifying and questions were raised
17 regarding the criminal case. Any questions regarding
18 the criminal case are better, you know, related to the
19 DA as opposed to the City Attorney and the Sacramento
20 City Code.
21 THE HEARING EXAMINER: Correct. Because it's
22 not under my purview to make those types of decisions.
23 BY MR. AGARWAL:
24 Q. You talked about grow houses fomenting or
25 increasing crime, right?

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1 A. Yes, sir.
2 Q. Is that sometimes because the growers and
3 people involved in growing are part of gangs?
4 A. Very well could be.
5 Q. Okay. Did you find any gang affiliation with
6 anybody that you arrested at 8651 Forte on
7 September 26th?
8 A. No.
9 Q. Could you look at just Exhibit 12? And this
10 is the arresting information from Sacramento Police
11 Department.
12 At the top there, it says, arrest pending
13 sergeant approval, approved on September 26th by
14 Jason Kirtlan.
15 Is that you or is that somebody else?
16 A. That's me.
17 Q. Okay. And at the bottom, it says -- I think
18 that's a code provision -- it says, gang involvement; no
19 gang involvement, right?
20 THE HEARING EXAMINER: Noted.
21 MR. AGARWAL: Thank you.
22 THE WITNESS: Correct.
23 BY MR. AGARWAL:
24 Q. How much money has the Sacramento Police
25 Department collected from the penalties issued to

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1 landowners?
2 MS. BICKEL: Objection. That's not relevant
3 to the violation here. We're supposed to apply the
4 facts to the code. It does not matter what Sacramento
5 has collected on other penalties.
6 MR. AGARWAL: Thank you very much, your Honor.
7 We are going to be arguing that this is a violation of
8 the United States Constitution --
9 THE HEARING EXAMINER: Not within my purview.
10 MR. AGARWAL: -- excessive fines and
11 penalties.
12 THE HEARING EXAMINER: Not within my purview.
13 MR. AGARWAL: We do want to make a record on
14 what is and what is not within your purview. But I am
15 obligated --
16 MS. PATTERSON: Is that in your brief that you
17 submitted in terms of your arguments about the
18 constitutionality of the --
19 MR. AGARWAL: Yes, I did.
20 MS. PATTERSON: Then it's on the record, but
21 she can't rule against -- she has no authority to rule
22 against the ordinance as being unconstitutional.
23 MR. AGARWAL: Okay.
24 MS. BICKEL: We did not receive a brief.
25 MS. PATTERSON: Whatever the document -- the

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|--|--|
| <p style="text-align: right;">Page 101</p> <p>1 pile he had. I was just referring to your binder. 2 THE HEARING EXAMINER: You said brief, 3 actually. 4 MS. PATTERSON: I said brief. 5 But also, too, in your appeal documents we 6 have, I don't know if it was stated in the letter -- 7 MR. AGARWAL: Sacramento Chapter 1.28 requires 8 us to provide a certain amount of information when we 9 file the appeal. 10 MS. PATTERSON: Right. 11 MR. AGARWAL: And we did, in fact, provide 12 that as part of the appeal. 13 Subsequent to that, United States Supreme 14 Court passed down a ruling in Timbs vs. Indiana. 15 MS. BICKEL: Objection. 16 MR. AGARWAL: And we therefore provided -- 17 MS. BICKEL: This is beyond the purview of -- 18 (Interruption by the Reporter.) 19 MR. AGARWAL: May I finish? 20 MS. PATTERSON: One at a time for her, please. 21 MR. AGARWAL: -- provided a subsequent letter 22 in light of the new Supreme Court precedent. 23 Now, I will later talk about section 1.24 and 24 this purported inability of the Hearing Officer to hear 25 these, because I think that's wrong.</p> | <p style="text-align: right;">Page 103</p> <p>1 MR. CAMACHO: And I am explaining why the 2 objection as to the relevancy of the statements you 3 raised, counsel. 4 That was dealing with a forfeiture, not with 5 an administrative penalty. 6 And, furthermore, even if it did apply, which 7 it does not, it is -- that's why it's our objection -- 8 the holding of the Court was merely the 14th 9 Amendment -- I'm sorry -- the 8th Amendment's excessive 10 fines clause of the United States Constitution applies 11 to the states. It actually remanded the case to the 12 lower court. It didn't even provide a test. It didn't 13 even provide -- it didn't even rule whether the 14 forfeiture subject to the case was excessive. 15 THE HEARING EXAMINER: Understood. But let's 16 go forward here. 17 And I am going to remind counsel that, again, 18 an administrative hearing, not a court trial; and I am 19 ruling only on violations of the code sections relative 20 to the Sacramento City Code. 21 BY MR. AGARWAL: 22 Q. You were sitting in the back when I had asked 23 your colleague, Officer Pitts, some questions about 24 whether you had any information that my client aided, 25 abetted, all of those things.</p> |
| <p style="text-align: right;">Page 102</p> <p>1 It's up to the Hearing Officer, of course, 2 what she wants to decide and what she don't want to 3 decide, but the argument that she does not have the 4 authority to do so, we think, is absolutely improper. 5 And we'll walk you through that, your Honor, at a later 6 point. 7 (The Reporter requested clarification.) 8 MR. AGARWAL: We will walk you through that, 9 Madam Examiner. 10 MR. CAMACHO: If I may, just this is 11 Emilio Camacho again on behalf of the Sacramento Police 12 Department. 13 Just for purposes of the record, since 14 Mr. Agarwal, counsel for the appellant, brought it up, I 15 would just like to point out that the Timbs decision is 16 irrelevant here for purposes of the proceeding, one, 17 because that's dealing with a legal question, legal 18 inquiry, that, as Ms. Bickel rightly pointed out, is 19 beyond the scope of today's proceeding. 20 But, second, that is a case that is dealing 21 with a forfeiture, not an administrative penalty. 22 MR. AGARWAL: May we have argument by counsel 23 at a later point? That's not an objection. This is 24 just argument. 25 MS. PATTERSON: One at a time.</p> | <p style="text-align: right;">Page 104</p> <p>1 And you heard him say no, right? 2 A. Yes, I did. 3 Q. Do you have any disagreement with that? 4 A. No, I don't. 5 MR. AGARWAL: Thank you very much. We have no 6 further questions. 7 MS. PATTERSON: So he can be excused then, 8 both officers? 9 MR. AGARWAL: Yes. Yes. 10 MS. BICKEL: May Officer Pitts be excused as 11 well? 12 MR. AGARWAL: Yes. Thank you, Officer Pitts. 13 Thank you. 14 THE HEARING EXAMINER: Thank you, Sergeant and 15 Officer. 16 MR. AGARWAL: May I? 17 THE HEARING EXAMINER: Absolutely. 18 MR. AGARWAL: Thank you. We at this time call 19 David Hin. 20 MS. AUTIO: Why don't you sit right there. 21 MS. PATTERSON: You can sit right there and he 22 can ask you questions there, and then you can have a 23 mic. 24 THE HEARING EXAMINER: The microphone is there 25 as well.</p> |

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1 MS. PATTERSON: And we'll swear you in.
2 MR. AGARWAL: Let me just move my pile of
3 stuff.
4 Have a seat, please.
5 THE WITNESS: Hi, my name is David. My last
6 name is Hin. I am a EH Property --
7 THE HEARING EXAMINER: We are going to have to
8 swear you in, sir.
9 MR. AGARWAL: They are going to ask you to
10 tell the truth, the whole truth.
11 THE WITNESS: Oh, okay. My name is -- oh.
12 MS. CHAND: Please raise your right hand.
13 Do you solemnly swear under the penalty of
14 perjury that the testimony and evidence that you give at
15 this hearing shall be the truth, the whole truth, and
16 nothing but the truth?
17 THE WITNESS: Yes, true.
18 MS. CHAND: Thank you.
19 THE HEARING EXAMINER: Do you want to go?
20 DIRECT EXAMINATION
21 BY MR. AGARWAL:
22 Q. Would you just tell everyone --
23 A. Okay.
24 Q. -- in your own words what your name is and
25 what you do?

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1 A. Okay. Your Honor, my name is David. My last
2 name Hin. And I am the property management for
3 EH Property Management, and I manage the property for
4 Mr. Wang. And we don't know each other before that.
5 And that agent referred to him to manage the property.
6 Q. Let me -- now, let me ask you a few background
7 questions, so it comes out nice and orderly.
8 Is EH Property Management your company?
9 A. Yes.
10 Q. And about how many employees do you have?
11 A. We have about four and we have some
12 maintenance men and subcontract, yes.
13 (The Reporter requested clarification.)
14 MS. PATTERSON: Maintenance.
15 THE HEARING EXAMINER: Maintenance.
16 THE WITNESS: Yes. And we have four employee,
17 and we do have some subcontract for working on
18 maintenance.
19 BY MR. AGARWAL:
20 Q. Okay. And you are based here in Sacramento?
21 A. Yes.
22 Q. All right. And are you based within 35 miles
23 of City Hall?
24 A. (Witness nods head.)
25 Q. Yes. You've got to answer so it gets

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1 recorded.
2 A. Yes.
3 Q. You can't nod your head in this room.
4 All right. About how old is your property
5 management business?
6 A. We manage the property in Sacramento area
7 around 2003 to now.
8 Q. Okay.
9 A. And we have a couple hundred property.
10 Q. Do you manage residential only or residential
11 and commercial?
12 A. We manage residential and apartment units.
13 Q. Now, you started talking a little bit about
14 Mr. --
15 A. Mr. Wang.
16 Q. -- Mr. Wang and how you met him. Let's just
17 make sure that the Hearing Examiner understands.
18 A. Sure.
19 Q. At some point, you were requested to manage
20 8651 Forte Street, right?
21 A. Yes.
22 Q. Okay. Who did the request come from?
23 A. One of the agents and selling the property --
24 buy the property for Mr. Wang, and they referred
25 Mr. Wang to call us for managing. And then we meet each

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1 other and go over the paperwork.
2 Q. Before that, did you know him?
3 A. No.
4 Q. Did you know anything about 8651 Forte?
5 A. No.
6 Q. Did you know the agent?
7 A. The agent, we know, yes.
8 Q. All right.
9 THE HEARING EXAMINER: Who is the agent by the
10 way?
11 MR. AGARWAL: I'll clarify in a minute.
12 THE HEARING EXAMINER: Thank you.
13 BY MR. AGARWAL:
14 Q. Now, we talked about the agent.
15 Now, Mr. Wang, at some point, bought 8651,
16 right?
17 A. Yes.
18 Q. Do you remember about when that was?
19 A. I believe sometime in July or August.
20 Q. Of 2017?
21 A. Yes.
22 Q. All right. And he used a real estate agent to
23 make the purchase, right?
24 A. Yeah, I'm not the real estate purchase for
25 him, and somebody else referred.

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1 Q. You actually are a real estate agent.
2 A. Yes, I am.
3 Q. So in addition to property management, you
4 also act as a real estate agent.
5 A. Yes.
6 Q. And you are licensed as a real estate agent.
7 A. Yes.
8 Q. But you were not Mr. Wang's real estate agent,
9 right?
10 A. We know her. She refer him to us.
11 Q. But you did not act as his agent. He bought
12 it using somebody else, right?
13 A. Yes.
14 Q. And then she referred you to him.
15 A. Yes.
16 Q. Okay. And what did he ask you to do?
17 A. We just -- whenever he call us, so we explain
18 what our fee and how we are going to manage the
19 property, and we will take care for him so he have free
20 time to do what he have to do.
21 Q. And you eventually entered into a property
22 management agreement, right?
23 A. Yes.
24 Q. I'm going to put this binder. So these are
25 tabs and I'm going to refer to them. Okay?

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1 Look at tab 13 of administrative appellant's
2 exhibits. Is this the property management agreement?
3 A. Yes.
4 Q. Okay.
5 A. That it.
6 Q. Now, did you -- what did you do once you were
7 hired? What were -- you were hired to rent the
8 property; is that right?
9 A. Yes.
10 Q. Okay. How did you go about renting the
11 property?
12 A. Okay. First, we signed the contract with the
13 property owner. And after that, we take all the
14 picture, we post it, and we advertising it. We look for
15 the tenant and we process it, the good credit, and we
16 check their background, and we move tenant in.
17 Q. In the back -- let me just hand it to you --
18 this is Exhibit 52 of administrative appellant's.
19 Is this an advertisement?
20 A. Yes.
21 Q. It's the advertisement for 8651 Forte Street?
22 A. Yes.
23 Q. Okay. And, at some point, did you receive
24 inquiries about the property?
25 A. Yes.

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1 Q. Okay.
2 THE HEARING EXAMINER: I don't think I
3 actually have 52. You said there was an envelope or
4 something back here?
5 MS. PATTERSON: We just have 50.
6 THE HEARING EXAMINER: Yeah, it stops at 50.
7 MR. AGARWAL: All right. We will correct that
8 problem. May I approach?
9 THE HEARING EXAMINER: Yes, please.
10 MR. AGARWAL: I think that binder might have
11 it.
12 THE HEARING EXAMINER: Okay. Thank you so
13 much.
14 BY MR. AGARWAL:
15 Q. Did you receive inquiries for renting the
16 property?
17 A. Yes.
18 Q. Did you receive more than one?
19 A. I believe the office process. I am not the
20 processor.
21 Q. Okay.
22 A. And, you know, I have been working outside and
23 go around, so I am not the processor.
24 But I do sign the contract with the tenant,
25 after -- with the owner after that, and our office do

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1 the job.
2 (The Reporter requested clarification.)
3 BY MR. AGARWAL:
4 Q. What was the last word you said? Offer it to
5 the --
6 A. The office to process the application, so --
7 Q. When you process the application -- so, at
8 some point, did you meet Mr. You Kai Lin --
9 A. Yes.
10 Q. -- the tenant?
11 A. So he go to the office.
12 Q. He came to the office.
13 A. Yeah, he came to the office, they apply, and
14 they processed it. They pay for the fee. And most of
15 the time --
16 (Interruption by the Reporter.)
17 BY MR. AGARWAL:
18 Q. Did you know him?
19 A. No.
20 (The Reporter requested clarification.)
21 BY MR. AGARWAL:
22 Q. Most of the time, they process the fee?
23 A. Yeah, processing fees and they -- sometimes
24 they apply on-line, and some people just bring the
25 application over and they pay for the fee. The office

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1 process.
2 Q. So sometimes they come in. When you say fee,
3 you are talking about a credit fee, right?
4 A. Yeah, credit fees. We didn't meet -- I don't
5 meet anyone. Because, normally, the office process
6 everything, so move people in.
7 Q. Okay.
8 A. Yeah.
9 Q. And am I correct that you ran a background
10 check on him?
11 A. Yes, we did.
12 Q. Okay.
13 A. We will prove that. We show.
14 Q. Yeah. Take a look at Exhibit 15. Is this the
15 credit report you ran?
16 A. Which page? Yeah.
17 Q. Is this a background screening report?
18 A. Yeah. What page is it?
19 Q. Oh, I'm sorry. Let me help. Fifteen.
20 A. Yes, that the credit report we run.
21 Q. And on the second page, it says, criminal
22 public records. Do you see that?
23 A. Yeah, no records.
24 Q. No criminal activity?
25 A. No criminal records.

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1 Q. Did you find any issue with anything he said
2 on here?
3 A. No.
4 Q. All right. Did he tell you where he had
5 previously lived?
6 A. Yeah, they do.
7 Q. Maryland, Baltimore, anything like that?
8 A. Yeah.
9 Q. Do you see that?
10 A. Yeah, they -- around the corner.
11 Q. All right. At any time before you leased it
12 to him, did you talk to anybody about allowing a tenant
13 to grow marijuana at the property?
14 A. No, never. We even have the criminal
15 addendum, no marijuana growing.
16 Q. Okay. In the lease. When you are talking
17 about criminal addendum, in the lease.
18 A. In the lease, yes.
19 Q. We will take a look at that.
20 Did Mr. Wang, the owner of the property, ever
21 tell you that he would allow marijuana to be grown on
22 that property?
23 A. Never. We never allow anybody. So that's why
24 we inspect yearly, inspect the property, yes.
25 Q. Okay. Let's look at the lease.

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1 A. Yeah.
2 Q. Exhibit 14, is that the lease?
3 A. Yes.
4 Q. Okay. And if we read the lease -- I won't go
5 down the fine print -- does it say no illegal marijuana
6 growing allowed?
7 A. No. When we sign the lease, we told them in
8 front, too.
9 Q. Did he ever tell you he was going to do it --
10 A. No.
11 Q. -- before?
12 A. No, nobody told me he's going to -- I'm going
13 to do marijuana in your house. Definitely not.
14 Q. All right. Now, let's talk about was an
15 inspection done at the time that you were kind of --
16 right around the time you did the lease?
17 A. When we do inspection, most of the time, we
18 just go in, test every room for the smoke alarm and make
19 sure they have a CO alarm, so for safety, and check all
20 of the electrical plugs, make sure that everything work
21 properly.
22 Q. And, in fact, at the back of the Exhibit 14,
23 we see the move-in checklist, right?
24 A. Yes.
25 Q. Did you at any time do inspections otherwise,

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1 after the move-in? Did you do an inspection of the
2 property afterwards?
3 A. First, we are going to -- first, when the
4 owner turn the property to us, we going to take
5 pictures, inspect the property, make sure safety.
6 After we move the tenant in, we go to the
7 property, we sign the lease on the property, and give
8 the tenant the time to go over the property. And, also,
9 we give them seven days to return the inspection list
10 for us to find any problem. So that's what we do.
11 Q. How about after that? After you gave the
12 property to Mr. Lin, did you do an inspection?
13 A. Yes. So we do at the end of the year, so make
14 sure -- normally, we do on the Thanksgiving day and the
15 holiday, because they cook a lot of turkey, so they may
16 use the oven, and safety. That's why we make sure, that
17 time, the house is safe, all the smoke alarm is safety
18 for the tenant.
19 Q. Did you personally go?
20 A. Yes, sometimes I do. And sometimes it's the
21 office, schedule for the office, if there is too many
22 properties in one day, and we spread it out.
23 Q. Okay. Look at Exhibit 16. This is a
24 declaration of notice to enter the dwelling unit, and
25 it's dated 13 December 2017, which is four months after

| | |
|---|---|
| <p style="text-align: right;">Page 117</p> <p>1 you --</p> <p>2 A. Yes.</p> <p>3 Q. -- gave him the property.</p> <p>4 A. Yeah, because probably we do that way, because</p> <p>5 we do on end of every year on November, December.</p> <p>6 Q. And at the bottom, it says -- I think it says</p> <p>7 Victor.</p> <p>8 A. Victor is my maintenance man.</p> <p>9 Q. Okay.</p> <p>10 A. Yes.</p> <p>11 Q. So he goes out and puts --</p> <p>12 A. He just posts it, yes, sir.</p> <p>13 (Interruption by the Reporter.)</p> <p>14 BY MR. AGARWAL:</p> <p>15 Q. Victor goes out and puts the notice on the</p> <p>16 tenant.</p> <p>17 A. Yes.</p> <p>18 Q. Why do you do that?</p> <p>19 A. Oh, because we just -- we have to post it 24</p> <p>20 hours. Sometimes, we have to let the tenant know we</p> <p>21 will be in to inspection, so people have time to stay</p> <p>22 home for us to inspect. But they -- some people say,</p> <p>23 okay, I'm not going to be home. We do have the key,</p> <p>24 allow us to go in to do the inspection, yes.</p> <p>25 Q. All right. Do you ever just barge in?</p> | <p style="text-align: right;">Page 119</p> <p>1 December, I go there, so everything be normal, just</p> <p>2 nothing happening.</p> <p>3 Q. You didn't see any marijuana plants there?</p> <p>4 A. No.</p> <p>5 Q. How about chemicals?</p> <p>6 A. No.</p> <p>7 Q. Electrical wires all over the place?</p> <p>8 A. No, nothing. Just like -- just like they</p> <p>9 first move in, they just have furniture. That's it.</p> <p>10 (The Reporter requested clarification.)</p> <p>11 THE WITNESS: So they move in, everything</p> <p>12 normal, and nothing is going to be like electrical wire</p> <p>13 or anything around, no.</p> <p>14 BY MR. AGARWAL:</p> <p>15 Q. You saw normal furniture.</p> <p>16 A. Normal everything, yes, just like people</p> <p>17 living there, just nothing happened.</p> <p>18 Q. Okay. Now, after you do this inspection, did</p> <p>19 you do anything else to make sure the property was being</p> <p>20 managed, well-managed?</p> <p>21 A. No, we just inspect the property, go check all</p> <p>22 the smoke alarm and look around. That's all we need to</p> <p>23 do. We take about like 15 minutes. So after that, then</p> <p>24 that's it.</p> <p>25 Q. Do you ever do drive-bys? Do you have</p> |
| <p style="text-align: right;">Page 118</p> <p>1 A. No, cannot do that by law.</p> <p>2 Q. It's illegal, right?</p> <p>3 A. Yeah, illegal.</p> <p>4 Q. Next page, it says, a reason. And then the</p> <p>5 third page, this is your checklist, right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And did you do the inspection that day?</p> <p>8 A. Yes.</p> <p>9 Q. And is that your signature?</p> <p>10 A. Yes.</p> <p>11 Q. December 15, 2017, about four months after</p> <p>12 Mr. Lin --</p> <p>13 A. Yes.</p> <p>14 Q. Did you see anything related to the growth of</p> <p>15 marijuana in that place?</p> <p>16 A. No, everything is normal. Mr. Wang had been</p> <p>17 there, too, so everything normal, like brand new.</p> <p>18 (The Reporter requested clarification.)</p> <p>19 BY MR. AGARWAL:</p> <p>20 Q. Mr. Wang had been there, too.</p> <p>21 A. Yes.</p> <p>22 Q. What do you mean by that?</p> <p>23 A. Okay. So before we move in, Mr. Wang have to</p> <p>24 go check the property one time and met with the tenant,</p> <p>25 and the tenant is very nice and everything. So then, on</p> | <p style="text-align: right;">Page 120</p> <p>1 people --</p> <p>2 A. Yeah, we do drive by, because they help in</p> <p>3 keep very update and we cannot see inside. We just</p> <p>4 drove by. You know how you cannot see inside when the</p> <p>5 curtains go down.</p> <p>6 Q. You check the yard is being --</p> <p>7 A. Check the yard.</p> <p>8 Q. -- if the yard is --</p> <p>9 (Interruption by the Reporter.)</p> <p>10 BY MR. AGARWAL:</p> <p>11 Q. You check the yard.</p> <p>12 A. We check the yard. We go by, yes, drive by.</p> <p>13 Q. Now, this is a residential neighborhood?</p> <p>14 A. Yeah.</p> <p>15 Q. And there is neighbors pretty close by.</p> <p>16 A. Pretty close by.</p> <p>17 Q. Okay. Anybody ever complain?</p> <p>18 A. No complaints. We don't receive anything.</p> <p>19 Yes.</p> <p>20 Q. All right. How much do you charge for rent?</p> <p>21 A. Based on that, it's 1,850. That do not</p> <p>22 include utility.</p> <p>23 Q. So the tenant pays --</p> <p>24 A. Plus utilities.</p> <p>25 Q. -- 1,850 plus utilities.</p> |

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1 A. Plus utilities, yes.
2 Q. And the electricity?
3 A. Electricity, tenant pay for. They have to use
4 their own Social to open the account. We cannot accept
5 the account. We don't know what they do with the
6 account. We call SMUD, they won't let you know. They
7 won't tell you anything about the personal.
8 Q. And then Sacramento, the electricity is
9 provided by someone known as the Sacramento Municipal
10 Utility District, right?
11 A. Yeah, they are the SMUD, yeah.
12 Q. Do they give you electricity data for a
13 tenant?
14 A. No, they never.
15 Even if we call and say, "Can we check for
16 this?" and they say, "Are you on the account?" I say,
17 "No." They say, "I cannot tell you." They won't tell
18 you anything about the account.
19 Q. Is that rent high for that area?
20 A. No. We usually pay on the data on the area.
21 What we do, we enter into our system, and we just
22 compare the area for the property, the condition of the
23 property, and the room and the size. So we come up with
24 that price.
25 Q. So not an abnormal rent. So normal rent.

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1 A. Normal rent. That's normal rent.
2 Q. What was the condition of the property when
3 you gave it?
4 A. Like brand new condition.
5 Q. How old was the property?
6 A. I believe that house is only a couple of years
7 old.
8 Q. All right. Did you keep records of your
9 dealings with the tenant, like, rental payments and
10 those kinds of things?
11 A. Yes.
12 Q. Take a look at Exhibit 18 -- excuse me --
13 Exhibit 17. Can you tell me what that is?
14 A. Huh?
15 Q. This is called a tenant ledger.
16 A. Yeah, tenant ledger.
17 Q. And it's the tenant ledger for You Kai Lin,
18 right?
19 A. The payment history.
20 Q. And, in general, what the ledger shows is kind
21 of whenever he makes a payment, when he doesn't make a
22 payment, when he requests service and you charge him for
23 some kind of maintenance, for example.
24 A. Yeah. So, normally, when they come pay on
25 time, so we enter what they pay and into the system so

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1 our system will clear. If they are late, we are going
2 to charge a late fee.
3 Q. Anything unusual on this that suggests that
4 there was marijuana being grown in that house?
5 A. No.
6 Q. There are some utilities, PG&E. That's a
7 reference to the gas bill, right?
8 A. Yes. The gas bill, PG&E, gas bill. SMUD is
9 electric.
10 Q. SMUD is electric.
11 A. Yeah.
12 Q. And water --
13 A. Water.
14 Q. -- the bill would come to you, but you would
15 make him pay, the tenant pay it, right?
16 A. Okay. Because the water and sewer, somehow,
17 we cannot transfer to, especially with the county, the
18 consolidated bill, you cannot transfer to the tenant.
19 You only can add to the tenant. If a tenant not pay,
20 owner responsibility.
21 So that's why we talk to Mr. Wang. You pay
22 the water and sewer, and we collect it back from you,
23 that way we make sure the account is paid.
24 Q. Okay.
25 A. Because we have a lot of tenant, they didn't

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1 pay their water and the sewer; and when they left, we
2 didn't know until the county lien to the property, and
3 they cost too much to the owner.
4 Q. Got it.
5 A. So yeah.
6 Q. Did the tenant ever ask you to come service
7 the place in any way at any time, fix the plumbing,
8 there is a leak, or anything like that? Did he ever
9 make any requests where you would have had to go into
10 the house?
11 A. No.
12 Q. Okay. That was probably because it was a
13 brand new house?
14 A. Yeah, because it's a brand new house.
15 Because, see, only a couple of years. And I heard, the
16 agent told me, that house, the previous owner bought it,
17 but never live in there, and probably only for the
18 weekend.
19 So Mr. Wang loved the house, because it's
20 brand new, almost brand new, never lived in it. And we
21 check the house, completely brand new.
22 If they don't call for repair or anything,
23 that's normal, because the house is perfectly brand new.
24 It's not like an old house. Most old house, they call
25 you, Oh, my sewer clog up or water leak. But this house

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1 is never.
2 Q. When you are referring to the prior owner, you
3 are referring to the original owner before Mr. Wang.
4 A. Yes.
5 Q. He didn't live there very much.
6 A. Yes.
7 Q. Okay.
8 A. That's what the agent told me, that the
9 previous owner never lived there before they sold it to
10 Mr. Wang.
11 Q. Okay. Thank you.
12 A. That's what I know.
13 Q. Now, let's go forward. Sometime -- your
14 testimony is you didn't have any information to suggest
15 to you there was someone growing. You did drive-bys,
16 you did an inspection in December.
17 At some point, you did learn that the tenant
18 had grown marijuana in the place, right?
19 A. We don't know anything about that.
20 Q. At some point, you have got -- how did you
21 eventually learn that there was a penalty and that
22 something had happened?
23 A. Okay. After Mr. Wang received it, they
24 notified me. But at the time, only the tenant have to
25 move out and return the property in perfect condition,

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1 and we put on up to rent again. We already accept
2 someone to move in the property.
3 Q. Okay.
4 A. So we didn't know anything about that.
5 Q. Let's break that down. We have already heard
6 a little bit, or I talked about it, and Mr. Wang will
7 talk about it, sometime in September and October, late
8 September and October of 2018, Mr. Wang went on a trip,
9 right?
10 A. Yes.
11 Q. And I think --
12 A. I didn't know he went on a trip. He said --
13 he do say in the E-mail, but I didn't see the E-mail.
14 And I didn't know anything, because, normally, he always
15 send me the bill, water bill, on that thing so I can
16 charge for the tenant. So it's a normal process.
17 Q. All right.
18 A. So yeah.
19 Q. So he comes back and he receives in the mail a
20 penalty, right?
21 A. I guess so.
22 Q. And then he called you?
23 A. He called me.
24 Q. What did he say?
25 A. He said, "David, I receive a letter," and he

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1 attach -- he E-mail me and text me, and I look at it.
2 And then I kind of -- so, you know, what's going on?
3 And then I say the house is nothing, so we
4 already -- we rent it and we advertising it, so --
5 Q. So by the time he came back from China, you
6 had already rented the place?
7 A. We already processed application, prepare to
8 move people in, because the property is no more -- is
9 perfect.
10 Q. So while he is in China, you are not aware
11 that he's got --
12 A. We're not aware of it, yes.
13 Q. So the tenant, Mr. Lin, who was growing the
14 marijuana, did he tell you about the penalty or that he
15 got arrested?
16 A. No, he didn't say nothing about it.
17 Q. He didn't tell you he got arrested?
18 A. Yeah, he didn't say anything.
19 Q. And then, at some point, did he tell you
20 something about, I'm leaving the property?
21 A. Yeah. First of all, he just call and say,
22 Okay, I'm going to be moving out 30 day. I say, okay,
23 you know, and --
24 Q. Stop. I want that to be clear.
25 He called you and said something about, I want

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1 to -- I'm going to be delayed leaving.
2 A. Yeah.
3 Q. Okay.
4 A. Because we have to have 30-day.
5 Q. When did the lease expire? Do you remember?
6 A. The lease expire one year from the date we
7 signed, yes, so --
8 Q. And then it goes month to month, right?
9 A. Goes month to month automatically, yes.
10 Q. All right. So did he ask for an extension of
11 the lease?
12 A. No. Normally, we don't need to. As long as
13 we accept the payment, that means we are going month to
14 month for the tenant.
15 Q. All right.
16 A. Yeah.
17 Q. So he calls you, says, I'm going to leave a
18 little bit late, right?
19 A. Yeah.
20 Q. Did he tell you why?
21 A. No, he didn't tell me why. He said, I'm going
22 to move back -- move to somewhere that he don't -- he
23 just call. He did not specify. He just say, okay, we
24 are going to give 30-day, we are going to be moving out.
25 Q. In 30 days.

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| <p style="text-align: right;">Page 129</p> <p>1 A. In 30 days.</p> <p>2 Q. So roughly sometime in end of September.</p> <p>3 A. Maybe the time he arrest, he get out from the</p> <p>4 jail, he call or something. I don't know.</p> <p>5 And then I say, okay, so if you are moving out</p> <p>6 and make sure you call us for schedule inspection.</p> <p>7 Q. You said we need to do an inspection of the</p> <p>8 property before you move out.</p> <p>9 A. Yeah, that means you have the right to two</p> <p>10 weeks before you move out pre-inspection.</p> <p>11 Q. Okay.</p> <p>12 A. So we can see -- tell you what you have</p> <p>13 damaged the house, you fix it. You have time to fix the</p> <p>14 house before you return to us. But that's it.</p> <p>15 Q. And then did you go and do the inspection with</p> <p>16 him?</p> <p>17 A. And, no, because he didn't come -- because the</p> <p>18 30 days not up.</p> <p>19 Q. Okay.</p> <p>20 A. But he already returned the key.</p> <p>21 Q. Okay.</p> <p>22 A. He returned the key before -- ten days after</p> <p>23 he just --</p> <p>24 Q. He returned the key.</p> <p>25 A. Yeah, after that.</p> | <p style="text-align: right;">Page 131</p> <p>1 Sometimes -- sometimes we can credit, if we got the</p> <p>2 tenant earlier, we can credit back to the previous</p> <p>3 tenant.</p> <p>4 Q. Got it.</p> <p>5 A. Yeah.</p> <p>6 Q. Anything -- you saw some pictures from</p> <p>7 Officer Pitts and from the City Attorney: marijuana</p> <p>8 plants, wires, broken windows, broken plumbing. Did you</p> <p>9 see anything like that?</p> <p>10 A. No, never.</p> <p>11 Q. Do you have any idea how that place got fixed</p> <p>12 up?</p> <p>13 A. No.</p> <p>14 Q. I'm going to show you something. I'm going to</p> <p>15 show you something that Mr. Camacho here put together.</p> <p>16 A. Yeah.</p> <p>17 Q. And I'm going to ask you a direct question.</p> <p>18 I'm going to ask you to look at the Hearing Examiner and</p> <p>19 answer the question.</p> <p>20 A. Sure.</p> <p>21 Q. Did you have any involvement in arranging for</p> <p>22 the repair of that property after it had been a grow</p> <p>23 house?</p> <p>24 Please look at the Hearing Examiner.</p> <p>25 A. No, I swear.</p> |
| <p style="text-align: right;">Page 130</p> <p>1 Q. Okay. Did you go over to the property then?</p> <p>2 A. Yeah, then we go to the property. And he just</p> <p>3 dropped the key off, and then we go to inspect the</p> <p>4 property and make sure, and then everything okay before</p> <p>5 we return the deposit.</p> <p>6 Q. Okay.</p> <p>7 A. So after we inspect the property, everything</p> <p>8 okay. It just need a minor carpet clean and, you know,</p> <p>9 kitchen cleaning. And, normally, that process, we go</p> <p>10 before the new tenant move in. So that's all we really</p> <p>11 know.</p> <p>12 Q. Did you take pictures when you went in?</p> <p>13 A. Yeah, we do.</p> <p>14 Q. Okay. Take a look at Exhibit 50.</p> <p>15 A. Exhibit 50. What's that? What number?</p> <p>16 Q. All the way at the back. Sorry. It's buried.</p> <p>17 Are these the pictures that you took sometime</p> <p>18 in -- whenever You Kai Lin gave the property back to</p> <p>19 you?</p> <p>20 A. Yes. That's why we start advertising, yes.</p> <p>21 Q. And you started advertising right away,</p> <p>22 because the property was perfect.</p> <p>23 A. Yeah, because the house is empty. So whenever</p> <p>24 tenant return the property, as soon as they return the</p> <p>25 property and we advertising, we move the tenant in.</p> | <p style="text-align: right;">Page 132</p> <p>1 Q. I showed you a subpoena that this team here</p> <p>2 sent to a company called William Construction, a</p> <p>3 gentleman by the name of William Chang.</p> <p>4 A. I do not --</p> <p>5 Q. Do you know Mr. Chang?</p> <p>6 A. No.</p> <p>7 Q. Have you ever called him to have this property</p> <p>8 repaired?</p> <p>9 A. No.</p> <p>10 Q. A permit was pulled for the repair of this</p> <p>11 property. Did you have anything to do with the permit?</p> <p>12 A. No.</p> <p>13 Q. I'm going to show you two things.</p> <p>14 Before we get to that, after you rented the</p> <p>15 property, after Mr. Lin gave you the keys back, did you</p> <p>16 give him his security deposit back?</p> <p>17 A. Huh?</p> <p>18 Q. Did you give him his security deposit back?</p> <p>19 A. No. Because after Mr. Wang sent me the paper,</p> <p>20 they have a fine, 13 something hundred dollars, so I</p> <p>21 have to minus for pay for that, yeah.</p> <p>22 Q. All right. Let's take a look at that. In</p> <p>23 your binder, it's Exhibit 2.</p> <p>24 This is the -- there was the administrative</p> <p>25 penalty for \$137,500, and then there was some building</p> |

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1 work, repair penalties, right?
2 A. Yes.
3 Q. That's what this is, Exhibit 2, right?
4 If you do the math, it's about 1,300 something
5 dollars.
6 A. Yeah, Mr. Wang called in and for the City
7 calculate. So we hold the property deposit and pay for
8 that.
9 Q. So Mr. Wang, at some time after he comes back
10 from China --
11 A. Yes.
12 Q. -- comes to see you.
13 A. Yes.
14 Q. Did you go to the City?
15 A. Mr. Wang, not me.
16 Q. Mr. Wang went to the City --
17 A. Yeah.
18 Q. -- and paid off this bill.
19 A. Paid off the bill.
20 And he call the City, and then we write a
21 check for whatever the City cost for that. And it come
22 to our company. We deduct it from the tenant deposit
23 and write a check to the City, gave it to Mr. Wang to
24 pay for the --
25 Q. Building problem.

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1 A. -- bill, yes.
2 Q. Okay. Okay. I want to talk about the repair
3 of this building. Okay?
4 MR. AGARWAL: Madam Hearing Examiner, I'm
5 going to be referring, in part, to Exhibit 51. Do you
6 have that in front of you?
7 THE HEARING EXAMINER: No, we do not.
8 MS. PATTERSON: Do you have it over there? Is
9 there a 51 in the binder?
10 MR. AGARWAL: I'll get you a copy. It should
11 be in the back folder. I might have made one last copy.
12 MS. PATTERSON: It's okay. We'll find it.
13 THE HEARING EXAMINER: Thank you.
14 MR. AGARWAL: And at the same time, your
15 Honor, I would like to have you pull up Exhibit K, which
16 is a declaration proffered by the City Attorney's
17 office.
18 I want to talk about this. Now, I have
19 objected to Exhibit K as absolute hearsay. And there is
20 something in there that really bothers me. I want your
21 Honor to have a clean answer on this.
22 THE HEARING EXAMINER: Okay.
23 MR. AGARWAL: And I will tell you that I got
24 this thing and actually received it in my hand at
25 3:00 p.m. yesterday; first time I have heard this

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1 declaration.
2 By way of background, Exhibit 51 is a public
3 records request that I sent to the City of Sacramento.
4 And what I asked was that all communications between the
5 City Attorney and William Chang of William Construction
6 be given to me. And this is after the City Attorney
7 obtained from your Honor a subpoena to be sent to
8 Mr. Chang. And it was, I believe, the reason that the
9 prior hearing was canceled over my objection.
10 Here is what Exhibit 51 has. It has a letter
11 from Mr. Chang. All right? And then it has the permit
12 that was actually applied for for the repair of this
13 building.
14 BY MR. AGARWAL:
15 Q. Did you have anything to do with applying for
16 the permit?
17 A. No.
18 Q. Did you authorize any permit to be issued for
19 8651 Forte Street?
20 A. No.
21 Q. Did you call any contractor to have --
22 A. No.
23 Q. -- it be pulled?
24 A. No.
25 Q. Did Mr. Wang ever tell you to pull a permit to

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1 have the property repaired?
2 A. No.
3 MR. AGARWAL: Okay. Here is what happened.
4 He sends a letter in response to a subpoena.
5 On September 27, I got a call from a man that
6 asked if I had a contractor license.
7 MS. BICKEL: Objection. He doesn't need to
8 read this into the record. It's part of the record.
9 MR. AGARWAL: I want to emphasize this,
10 because I'm going to be talking about it with respect to
11 the other information.
12 MS. BICKEL: Can I put my objection on the
13 record though?
14 THE HEARING EXAMINER: Yes.
15 MS. BICKEL: The microphone was off. I'm just
16 objecting that the document speaks for itself. He does
17 not need to read it into the record. He can just tell
18 you whatever he wants to tell you about the document.
19 MR. AGARWAL: This is what I'm going to tell
20 you.
21 THE HEARING EXAMINER: Okay.
22 MR. AGARWAL: This is what Mr. Chang says.
23 THE HEARING EXAMINER: All right.
24 MR. AGARWAL: Then he says another person
25 called the same day. He gives a phone number.

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1 BY MR. AGARWAL:
2 Q. I'm going to ask you a question.
3 (916) 450-9098, is that your phone number?
4 A. No.
5 Q. Anybody you know that has that phone number?
6 A. No.
7 MS. PATTERSON: Do you want to solve the
8 mystery for us?
9 MR. AGARWAL: I don't have that answer to the
10 mystery. I want to make sure we get to this.
11 MS. PATTERSON: Okay.
12 MR. AGARWAL: Now, after he sends this letter,
13 yesterday, I get a declaration. It's attached as
14 Exhibit K.
15 MS. PATTERSON: Can you tell us which
16 declaration you are referring to?
17 MR. AGARWAL: Wang declaration, Exhibit K, in
18 the City's submission, declaration of William Chang.
19 And I just have to find it myself. Whenever
20 you find it. I don't know if yours were tabbed. Mine
21 was not.
22 MS. BICKEL: It's right after that. Keep
23 going. It should be the next one. It's Elizabeth's,
24 and then --
25 MR. AGARWAL: You don't have a copy of this?

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1 Let me show you -- whenever you are --
2 MS. BICKEL: J is Elizabeth's, and then K is
3 William's. Elizabeth's has a bunch of pictures on it,
4 after it, as well. Keep going. It's after all of the
5 pictures. Sheryl, you are close. Keep going.
6 MS. PATTERSON: I've found it. I don't know
7 where it was, but I found it.
8 BY MR. AGARWAL:
9 Q. Mr. Hin, I'm going to show you this
10 declaration from this company, Mr. William Chang of
11 William Construction. I want you to read the very top
12 of it. Okay?
13 A. Where is it?
14 Q. I'll show it to you.
15 A. Okay.
16 Q. The first question is, have you ever seen this
17 declaration? Second question I'm going to ask you is,
18 have you ever -- have I ever discussed this declaration
19 with you? All right?
20 Read the top of this. This is from Mr. Chang,
21 or William Construction.
22 MS. BICKEL: I'm not sure of the line of
23 questioning, if he's seen it or discussed it with
24 counsel.
25 This was just submitted -- this was just

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1 signed on the 22nd of May and submitted to him two days
2 ago.
3 BY MR. AGARWAL:
4 Q. Prior to you being here, Mr. Hin, have you
5 ever been shown that declaration?
6 A. No.
7 Q. Is it right now when I gave that to you is the
8 first time you've seen that?
9 A. Yes.
10 Q. Had anybody ever read it to you over the
11 phone --
12 A. No.
13 Q. -- or anything?
14 A. No.
15 Q. It's the first time you are ever hearing about
16 that accusation.
17 A. Yes.
18 Q. What does that accusation say?
19 A. It says I -- the person may have been
20 Mr. David Hin.
21 (The Reporter requested clarification.)
22 MS. PATTERSON: This line of questioning you
23 said, he's already admitted that he had no knowledge
24 about repairing the house.
25 So are you just trying to reinforce the fact

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1 that he had no knowledge of the repair of the house? Is
2 that what this is about?
3 MR. AGARWAL: I'm trying to make sure the
4 Hearing Examiner understands what's going on.
5 MR. CAMACHO: I would just like to put an
6 objection on the record, Madam Examiner, if I may.
7 This is Emilio Camacho on behalf of the
8 Sacramento Police Department.
9 We would request, your Honor, Madam Examiner,
10 that the record be corrected, because Mr. Agarwal,
11 counsel for the appellant, referred to
12 Mr. William Chang's recollection of the events on that
13 said date as an accusation. And this is not an
14 accusation. This is merely Mr. William Chang's --
15 THE HEARING EXAMINER: It's a recollection.
16 MR. CAMACHO: -- recollection of his work and
17 how he ended up performing work at the subject property.
18 So we would just like to make sure that that's
19 reflected on the record.
20 MS. BICKEL: I'm sorry. I also want to add
21 that the public records request that Mr. Agarwal made
22 was responded to before this document was executed, and
23 there is no continuing duty under the PRA that if new
24 documents come up after the documents have been
25 provided, that the City must provide those as well.

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1 MS. PATTERSON: But he has it and you have
2 never seen this.
3 BY MR. AGARWAL:
4 Q. Now that you have seen this, did you talk to
5 Mr. William Chang or anybody else at
6 William Construction about repairing --
7 A. No.
8 Q. Let me make sure that's clear on the record.
9 Did you -- now that you have seen the
10 declaration of Mr. Chang --
11 A. Yes. Now I see it.
12 Q. I'm going to ask you one more time. So look
13 straight at the Hearing Examiner and tell her whether
14 you spoke to Mr. William Chang about repairing 8651
15 Forte.
16 A. No, I never.
17 THE HEARING EXAMINER: Okay.
18 MS. PATTERSON: He's under oath. We accept
19 it.
20 THE HEARING EXAMINER: So we have established
21 that the property management company had no knowledge of
22 the repairs that were made by William Construction. Is
23 that what we're getting at here, sir?
24 MR. AGARWAL: Yes.
25 THE HEARING EXAMINER: Got it.

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1 MR. AGARWAL: And that whatever that
2 recollection is is false --
3 THE HEARING EXAMINER: Okay.
4 MR. AGARWAL: -- that Mr. Chang has.
5 THE HEARING EXAMINER: Noted.
6 MR. AGARWAL: And, unfortunately, he's not
7 here to answer questions.
8 We would request that, to the extent your
9 Honor has any credibility attached to that statement,
10 that we continue this hearing and drag him in here for
11 face-to-face questioning.
12 MS. AUTIO: Please remember to speak into the
13 mic. We are having reporting difficulties.
14 MR. AGARWAL: Thank you.
15 MS. AUTIO: We need the mic to pick it up,
16 please.
17 THE HEARING EXAMINER: Yeah.
18 BY MR. AGARWAL:
19 Q. Do you have anything else to add about 8651
20 Forte Street that I didn't ask about in terms of your
21 conversations with Mr. Wang about growing pot in the
22 house?
23 MS. BICKEL: I can't hear you, Monty.
24 MR. AGARWAL: All right. I don't have any
25 further questions. I'll turn it over, and then reserve

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1 right for rehabilitation later.
2 MS. BICKEL: Madam Examiner, my cross-exam is
3 quite extensive. I see that the time is almost noon.
4 THE HEARING EXAMINER: Yeah.
5 MS. BICKEL: I am presuming everyone needs a
6 break, especially the court reporter. So I would
7 propose we do that. When we come back, I'll start my
8 cross-examination.
9 THE HEARING EXAMINER: Is a half an hour
10 suitable for people to grab a bite to eat, something to
11 drink, and come back?
12 MR. CAMACHO: That would be fine.
13 MS. BICKEL: Yep.
14 MR. CAMACHO: That would be fine with the
15 City, your Honor.
16 MR. AGARWAL: Madam Hearing Examiner, I would
17 like one thing. I understand they have a lengthy
18 cross-exam. I would like to put my witness up,
19 Mr. Zuhu Wang, in part because the Interpreter has to
20 go, and I need him to interpret for Mr. Wang's
21 testimony.
22 MS. BICKEL: How long?
23 MS. PATTERSON: How long do you think it's
24 going to last?
25 MR. AGARWAL: His will be -- I mean, it's

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1 interpreted testimony, so it's going to take a little
2 longer than normal. But he doesn't have very much to
3 add.
4 THE HEARING EXAMINER: I think we are going to
5 need a break though.
6 MR. AGARWAL: Absolutely. Right after the
7 break is my request.
8 MS. PATTERSON: How long is your interpreter
9 going to be here for, and why can't he stay?
10 MR. AGARWAL: Well, we have to pay him \$200 an
11 hour to be here.
12 MS. PATTERSON: Well, I understand.
13 MR. AGARWAL: I asked for him to be here four
14 or five hours.
15 Can you be here until 1:30?
16 THE INTERPRETER: Yes.
17 MS. PATTERSON: So why don't we take a break
18 and come back at 12:30, and then we will have your
19 appellant.
20 MR. CAMACHO: If we may, Madam Examiner, I
21 would just like to ask staff, can we refer back to the
22 notice? What was the time that this meeting was
23 noticed? Wasn't it 8:00 to 5:00, or something like
24 that?
25 MR. AGARWAL: 9:00.

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1 MS. AUTIO: 9:00 to 5:00.
2 MR. CAMACHO: 9:00 to 5:00. Therefore, we
3 feel that there was proper notice that this could go --
4 MS. PATTERSON: We understand. Why are you
5 prejudiced if he testifies -- the appellant testifies,
6 and then the property owner comes back? Why is that a
7 problem?
8 MS. BICKEL: Let me respond to that.
9 MR. AGARWAL: In fact, that is how it was
10 presented, that we will be -- each side will present
11 their witnesses, and then they will cross-examine. So I
12 should be allowed to finish my case without having all
13 of these interruptions.
14 MS. PATTERSON: We are not disagreeing with
15 you. We are just trying to see if we can accommodate
16 your request that the property owner start testifying at
17 12:30 rather than -- sorry -- rather than the property
18 manager.
19 And the question is, why is that a problem for
20 the City?
21 MS. BICKEL: It's a problem for the City, A,
22 because we have the freshness of the testimony that was
23 just discussed.
24 Mr. Agarwal had the opportunity to
25 cross-examine our witnesses right after we did it.

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1 I understand the issue with the Interpreter,
2 but the testimony of Mr. Hin, especially the
3 cross-examination questions I intend to ask, are
4 directly related to the questions that --
5 THE HEARING EXAMINER: We are going to move
6 forward with Mr. Hin when we come back at 12:30. And I
7 don't foresee that, regardless of the number of
8 questions that are asked, that it will take that long
9 that we are going to be precluding a departure at 1:30
10 for your translator.
11 MR. AGARWAL: Thank you.
12 MR. CAMACHO: I guess, if I just may, what the
13 City is requesting is just, Oh, 1:30 hits, sorry, your
14 cross-examination is done. Okay? So we just want to
15 make sure that it's on the record that, even if we hit
16 after 1:30, we may not be finished, that is --
17 THE HEARING EXAMINER: Well, I believe, sir,
18 that --
19 MR. CAMACHO: -- not a cap on our timing to
20 cross-examine.
21 (Interruption by the Reporter.)
22 THE HEARING EXAMINER: -- we will not be
23 calling time at 1:30; that your testimony will be a full
24 and accurate testimony. Correct?
25 MS. PATTERSON: What he's claiming is that he

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1 doesn't know if at 1:30 that the City will be done
2 cross-examining.
3 MR. CAMACHO: Correct.
4 MS. PATTERSON: So the translator needs to be
5 here for the City to have opportunity to
6 cross-examine --
7 THE HEARING EXAMINER: And I am not going
8 to -- I am not going to grant a continuance based upon
9 the lack of availability here. I believe that we can
10 conclude in a succinct fashion so that we are able to
11 make that accommodation.
12 And if we can go right now and be back at
13 12:30, I will believe we can accomplish this.
14 MR. AGARWAL: Thank you.
15 MS. BICKEL: I just want to add real quickly
16 that being allowed to cross-examine Mr. Hin first may
17 negate a lot of the questions that I would need to ask
18 of Mr. Wang.
19 THE HEARING EXAMINER: Okay. That's perfect.
20 Thank you. Reconvene at 12:30.
21 (A lunch break was taken.)
22 THE HEARING EXAMINER: Okay. Following lunch,
23 we are back on the record.
24 And Ms. Bickel?
25 MS. BICKEL: I can't hear you.

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1 MS. PATTERSON: Try it again.
2 THE HEARING EXAMINER: We're back on the
3 record. The Witness is still sworn, Mr. Hin.
4 And Ms. Bickel, if you could proceed.
5 MS. BICKEL: Thank you. For the record, this
6 is Melissa Bickel for the City of Sacramento, Sacramento
7 Police Department.
8 CROSS-EXAMINATION
9 BY MS. BICKEL:
10 Q. Good afternoon, Mr. Hin.
11 A. Yes.
12 Q. I have one preliminary matter. If you could
13 look at --
14 MS. BICKEL: Do you have our exhibits for him?
15 MR. AGARWAL: I might have them kind of marked
16 up.
17 MS. BICKEL: Yeah, may I walk over --
18 MR. AGARWAL: Yes.
19 MS. BICKEL: -- and show him some exhibits?
20 I'm going to refer you-all to Exhibit L -- to
21 Exhibit L.
22 MS. PATTERSON: Which is what?
23 MS. BICKEL: There are two different subpoenas
24 that were issued to EH Property Management in this case.
25 So let's see. We're going to have to share a mic.

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| <p style="text-align: right;">Page 149</p> <p>1 THE WITNESS: Okay.</p> <p>2 BY MS. BICKEL:</p> <p>3 Q. So I would like you to look at these two</p> <p>4 documents. So there is a City of Sacramento --</p> <p>5 (Interruption by the Reporter.)</p> <p>6 BY MS. BICKEL:</p> <p>7 Q. Sorry. There is the City of Sacramento</p> <p>8 subpoena that was issued on 4/5/2009, and the proof of</p> <p>9 service indicates it was served on EH Property on</p> <p>10 April 8th. Do you recognize that document?</p> <p>11 A. The lawyer send to me. I was on vacation.</p> <p>12 Q. You were on vacation?</p> <p>13 What about this document? It's a subpoena</p> <p>14 issued through the City of Sacramento Superior Court</p> <p>15 that was served on EH on -- let's see -- 2/25/19. Do</p> <p>16 you remember getting this?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you respond directly to either of</p> <p>19 these subpoenas? The second one I showed you was per a</p> <p>20 copy service. The first one was through the hearing</p> <p>21 officer. Did you respond directly to either of those?</p> <p>22 A. No, I send to Mr. Monty.</p> <p>23 Q. Okay. So when you got this first subpoena,</p> <p>24 you sent the records to Mr. Agarwal?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 151</p> <p>1 Q. Okay. And so you have read the subpoenas and</p> <p>2 you saw all of the documents we requested, correct?</p> <p>3 A. I don't know exactly what document means, so</p> <p>4 that's why I ask Mr. Agarwal to help. That's why.</p> <p>5 Q. Okay. Did you provide every document that was</p> <p>6 requested in the subpoena when you first --</p> <p>7 A. Yeah, whatever I have, I send to Mr. Agarwal.</p> <p>8 Q. So any document having to do with 8651 Forte</p> <p>9 Street, you provided to Mr. Agarwal.</p> <p>10 A. Yes.</p> <p>11 Q. So any document that was not in that packet</p> <p>12 does not exist. Is that a fair statement?</p> <p>13 A. Yeah, whatever I have, I provide it.</p> <p>14 Q. And you provided electronically-kept documents</p> <p>15 as well?</p> <p>16 A. Yeah, I send it by E-mail.</p> <p>17 Q. Okay. So any E-mails you had with Mr. Wang,</p> <p>18 or anything having to do with that, you provided as part</p> <p>19 of this packet as well?</p> <p>20 A. Yeah, everything I have, the E-mail, like,</p> <p>21 utility, we always communicate, like, utility bill and</p> <p>22 all that. We got never any other stuff.</p> <p>23 Q. Okay. So I'll represent to you that Exhibit M</p> <p>24 in the City's binder is all documents that Mr. Agarwal</p> <p>25 provided to us, and we will go through these in a little</p> |
| <p style="text-align: right;">Page 150</p> <p>1 Q. Why didn't you respond to the subpoena, to the</p> <p>2 copy service --</p> <p>3 A. Because I don't know how to respond and I</p> <p>4 ask Mr. Agarwal to --</p> <p>5 MS. AUTIO: Melissa, what exhibit?</p> <p>6 MS. BICKEL: L.</p> <p>7 THE WITNESS: I ask him for help on how to do</p> <p>8 it. But I never did that before, so I don't know how to</p> <p>9 do it.</p> <p>10 BY MS. BICKEL:</p> <p>11 Q. Then if you look at the -- let's see. On</p> <p>12 Exhibit L -- let's see. I'll tell you how many pages</p> <p>13 in. One, two, three, four, five, six, seven -- page 10</p> <p>14 of Exhibit L. I'm sorry. I didn't put numbers on</p> <p>15 there. You are going to have to count the old-fashioned</p> <p>16 way.</p> <p>17 This is a copy of a document that was received</p> <p>18 from the copy service or from the subpoena service that</p> <p>19 served the first subpoena, and it looks like they kept</p> <p>20 trying to contact you to find out what was going on, but</p> <p>21 you wouldn't respond to them.</p> <p>22 Was there a reason why you wouldn't respond?</p> <p>23 A. No, I do have call them. I ask for help and</p> <p>24 get Mr. Agarwal to help, and that's why I left them a</p> <p>25 message and told them who is going to take care of that.</p> | <p style="text-align: right;">Page 152</p> <p>1 bit. Okay?</p> <p>2 Okay. So you testified that you have been --</p> <p>3 well, your website says you have been in Sacramento for</p> <p>4 approximately 15 years, correct?</p> <p>5 A. Yeah, we have been doing a long time, yes.</p> <p>6 Q. And you have a couple hundred properties that</p> <p>7 you manage in the Sacramento area.</p> <p>8 A. Yes.</p> <p>9 Q. How many of those are in the city of</p> <p>10 Sacramento?</p> <p>11 A. City, I didn't count. I don't know exactly.</p> <p>12 We do have in the county, so around the Sacramento</p> <p>13 County perhaps -- Sacramento County and City,</p> <p>14 approximately about like -- about 200, 150 to 200.</p> <p>15 Q. Okay. And you couldn't give me an estimate as</p> <p>16 to the percentage that are just in the city limits,</p> <p>17 correct?</p> <p>18 A. No, I cannot.</p> <p>19 Q. And you said that not only are you a property</p> <p>20 manager, but you are a real estate agent as well.</p> <p>21 A. Huh?</p> <p>22 Q. You are not only a property management person,</p> <p>23 you are also a real estate agent as well.</p> <p>24 A. Yes, I am.</p> <p>25 Q. And how long have you been a real estate</p> |

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|---|--|
| <p style="text-align: right;">Page 153</p> <p>1 agent?</p> <p>2 A. In 2011.</p> <p>3 Q. And so, I mean, you would consider yourself an</p> <p>4 expert in rental properties. Is that a fair statement?</p> <p>5 A. Yes.</p> <p>6 Q. And you have been dealing with these rental</p> <p>7 properties and the issues that arise from them for many</p> <p>8 years, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Now, because you are in the community, and I</p> <p>11 don't want to be disrespectful, but Asian as well, you</p> <p>12 know that there is a problem with Asian people and grow</p> <p>13 houses.</p> <p>14 MR. AGARWAL: I object to that, your Honor.</p> <p>15 BY MS. BICKEL:</p> <p>16 Q. Maybe not based on being Asian yourself, but</p> <p>17 as a property manager, you are aware that there is a</p> <p>18 cannabis problem in Sacramento, aren't you?</p> <p>19 MR. AGARWAL: I object to that.</p> <p>20 MS. PATTERSON: You can ask him is he aware.</p> <p>21 You are confirming that he is aware of it.</p> <p>22 MS. BICKEL: Well, it's cross-examination, so</p> <p>23 I can --</p> <p>24 MS. PATTERSON: Well, you are assuming</p> <p>25 something as a fact. That's what I'm saying.</p> | <p style="text-align: right;">Page 155</p> <p>1 do -- people say they send a note out warning the owner,</p> <p>2 but we never received any warning from the City about</p> <p>3 this property.</p> <p>4 Q. But you have received it for other properties.</p> <p>5 A. Yes, we did.</p> <p>6 Q. Have you had any other properties that were</p> <p>7 issued -- that you were managing that were issued</p> <p>8 administrative penalties similar to what this property</p> <p>9 got issued?</p> <p>10 A. No.</p> <p>11 Q. Are you familiar with a property called 15 --</p> <p>12 let's see -- 2151 Burberry Way?</p> <p>13 A. Yeah, we familiar with that, because a long</p> <p>14 time, so we -- after --</p> <p>15 (The Reporter requested clarification.)</p> <p>16 THE WITNESS: After we receive the phonecall</p> <p>17 from the -- they say, Do you recognize this? I say yes.</p> <p>18 BY MS. BICKEL:</p> <p>19 Q. So you have had a property that you managed</p> <p>20 before that --</p> <p>21 A. One, yes.</p> <p>22 Q. -- was issued a --</p> <p>23 (Interruption by the Reporter.)</p> <p>24 BY MS. BICKEL:</p> <p>25 Q. I am going to repeat it so that the court</p> |
| <p style="text-align: right;">Page 154</p> <p>1 MS. BICKEL: Okay.</p> <p>2 BY MS. BICKEL:</p> <p>3 Q. Are you aware that there is a cannabis problem</p> <p>4 in rental houses in Sacramento?</p> <p>5 A. We know around the Sacramento area, so we</p> <p>6 heard it, and that's why we checked everything to make</p> <p>7 sure. We do yearly inspection. That's our job, to make</p> <p>8 sure that safety.</p> <p>9 So we do not know individual. We cannot tell</p> <p>10 if it's Chinese or Asian that's doing it, that kind of</p> <p>11 thing. There's many people, different race, they do</p> <p>12 that, too. But it doesn't mean it's Asian. If you are</p> <p>13 a person that's Asian -- I mean, only Asian, no.</p> <p>14 Q. I'll withdraw that question. I apologize.</p> <p>15 I'll strike that from my line of questions.</p> <p>16 THE HEARING EXAMINER: Withdrawn, yes.</p> <p>17 BY MS. BICKEL:</p> <p>18 Q. Have you ever personally managed a property</p> <p>19 that had a grow house before Mr. Wang's property?</p> <p>20 A. Yeah, I did. Sometime they have, because when</p> <p>21 the City, normally, they supposed to send the notice</p> <p>22 notifying the owner. If we note it, we have to stop</p> <p>23 them right away or we have to take them out right away.</p> <p>24 But if the City not notify us, we don't know</p> <p>25 until something happens. So sometimes the City -- we</p> | <p style="text-align: right;">Page 156</p> <p>1 reporter can do it. You've got to let me finish my</p> <p>2 question before you give your response so she doesn't</p> <p>3 give us the evil eye.</p> <p>4 You have managed a property before that had a</p> <p>5 grow house on it and was issued an administrative</p> <p>6 penalty as a result of that, correct?</p> <p>7 A. They have that, yeah, because the tenant, they</p> <p>8 hide it from us. We go inspect the property and nothing</p> <p>9 happened like that. After you go and they come back</p> <p>10 again, so we don't know, yes.</p> <p>11 Q. So I'm sorry. I don't mean to be rude, but</p> <p>12 that's a yes or no question.</p> <p>13 That's true, you have had a property before</p> <p>14 that was issued administrative penalties as a result --</p> <p>15 A. Yes, one.</p> <p>16 Q. Yes.</p> <p>17 MS. BICKEL: And would the Hearing Examiner</p> <p>18 like a copy of that prior administrative penalty? And I</p> <p>19 will represent to you that these are documents that were</p> <p>20 provided by EH Management as a result of a subpoena that</p> <p>21 was issued pertaining to that property.</p> <p>22 MR. CAMACHO: Let me, if I may. Actually, it</p> <p>23 wasn't a subpoena. Actually, let me correct the record.</p> <p>24 MS. BICKEL: Sorry.</p> <p>25 MR. CAMACHO: This was in another case. We</p> |

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1 were working with an attorney, another attorney.
2 Opposing counsel reached out to EH, and opposing
3 counsel, during our negotiations for settlement, they
4 provided those documents for 2151 Burberry, which they
5 obtained from EH.
6 So, again, just want to make sure that it
7 wasn't the result of a subpoena, but it was the result
8 of settlement negotiations with counsel for the owner of
9 that property.
10 THE HEARING EXAMINER: Thank you.
11 BY MS. BICKEL:
12 Q. So this penalty occurred back in November of
13 2017, correct?
14 A. Yes. I don't remember. I don't really
15 remember the day.
16 Q. Okay. Were you already managing Mr. Wang's
17 property at the time that this occurred, that you found
18 out about it?
19 A. No.
20 Q. No. You were managing --
21 A. I don't recall the time.
22 Q. Well, based upon the documents you provided --
23 let's see -- you entered into the property management
24 contract with Mr. Wang --
25 A. August, right? July, August.

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1 Q. -- July 21st, 2017.
2 A. Yeah.
3 Q. That's Exhibit M to the City's documents.
4 So if this penalty was issued on
5 November 21st, 2017, you were already managing
6 Mr. Wang's property at the time this occurred, correct?
7 A. Yes, because the time, I didn't know exactly.
8 Q. And based on this property, you became aware,
9 if not before then, that cannabis cultivation inside
10 residential properties was an issue, true?
11 A. That's one, after this one, we starting to
12 check on more often. So we don't know exactly.
13 Q. Okay. And I think you testified earlier that,
14 after the inspection of Mr. Wang's property in
15 approximately December of 2017, you didn't go back at
16 all until after the tenant moved out in 2018, right?
17 A. No, we do go back there.
18 Q. When did you go back?
19 A. Okay. So, first, and we moved the tenant in,
20 and then Mr. Wang have schedule for, I think it's about
21 a month later, go in again.
22 Q. Right.
23 A. And Mr. Wang go in and see the tenant and all
24 that. And December, we go in again for check, to check
25 the house. We have all the records there.

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1 Q. I'm talking about after December until the
2 tenant moved out, was there any time in between there
3 that you went back to check on the property?
4 A. No.
5 Q. Isn't it -- based on the fact that you were
6 now aware that illegal cannabis was being grown in a
7 property you managed, wouldn't it be best practices to
8 check on your properties more often?
9 A. Well, that would call for that, yes. But we
10 do -- normally, our process is a yearly inspection. We
11 do most on the holiday, before the holiday, that time.
12 Q. But don't you think it would be best practices
13 to inspect more given that you were now aware that
14 people are going behind doors and your clients' backs
15 and growing cannabis inside their properties?
16 A. Yeah, now we starting to do it more often.
17 That's true.
18 Q. Did you tell us the agent's name who sold
19 Mr. Wang the property and referred him to you?
20 A. Based on the tenant, I asked -- the owner,
21 they say Michelle Wong. But Michelle Wong is the agent
22 that I know, because I don't know exactly -- Mr. Wang
23 call me. Michelle Wong never call me. Maybe
24 Michelle Wong gave her -- give him a number and said
25 maybe you call this property management, so --

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1 Q. You don't know Michelle Wong personally?
2 A. We know him, because -- I know her, because
3 she have been giving us a couple of properties before, a
4 couple, yes, definitely.
5 Q. Okay. Let's take a look at the rental
6 agreement on the property, which is Exhibit M to the
7 City's exhibits. And I'll come over with you again,
8 Mr. Hin. My apologies.
9 A. That's okay.
10 Q. So given that you have been doing property
11 management for a long time, you've executed a lot of
12 property management contracts and a lot of residential
13 lease contracts, correct?
14 A. Yes.
15 Q. Do you have familiarity with contract
16 requirements at all, like, who has to sign it and --
17 A. Yes.
18 Q. Okay. So if you look at this property
19 management contract, you will notice that it's never
20 been executed by anyone from your company.
21 A. Yeah, we did.
22 Q. It's never -- I mean, if you look through it,
23 it's never been executed by anyone from your company or
24 by Mr. Wang.
25 A. Okay. This one, we take it from the -- we

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1 take it from the E-mail forward, because we have to have
2 signed and in the file, not this. Because Mr. Wang
3 signed it and send to us from the E-mail, and then we do
4 the E-mail forward to the lawyer. We have the one, it's
5 on file, like on the file cabinet, that he have signed.
6 Q. Okay. But you just told me you provided
7 everything that was responsive to this subpoena to
8 Mr. Agarwal. So why isn't the signed copy here?
9 A. I didn't -- I didn't -- I didn't pay attention
10 on that one. But if you want, we can forward a set for
11 you. No problem.
12 Q. And then I also noticed that it's signed by
13 two different people. So there is two tenants; is that
14 correct?
15 A. Yes.
16 Q. Okay. And their names -- let me find their
17 names. You Kai Lin and Zhan Lin, correct?
18 A. Yes.
19 Q. Okay. And I'll come back over here.
20 MS. PATTERSON: Before we do that, I just want
21 to put something on the record.
22 So Number 14 in appellant's packet is a copy
23 of a lease, and it's the same thing. It's only signed
24 by the tenant. I just wanted to indicate that we have
25 two copies in the record, but they're both the same, and

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1 not signed by the landlord.
2 MS. BICKEL: Oh, the other one is not signed
3 either?
4 MS. PATTERSON: No.
5 MS. BICKEL: Thank you. I have not had an
6 opportunity to look closely at that, so I appreciate
7 that.
8 BY MS. BICKEL:
9 Q. And part of that same Exhibit M, a little bit
10 farther ahead is the advertisement you did for the
11 property?
12 A. Yes.
13 Q. You looked at that before, correct?
14 A. Yes.
15 Q. So you were retained by Mr. Wang in July,
16 right, July of 2017?
17 A. Yes.
18 Q. And the property was rented as of
19 August 2000 -- August of 2017.
20 When did this go up? Do you know? Because
21 there is no date on it.
22 A. No. I often advertising, so I don't know
23 exactly.
24 Q. In your business, based on all of the
25 properties that you have managed, how long generally

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1 does it take to get an advertisement like this posted?
2 A. As soon as we sign the contract, normally,
3 they take about, like, a couple of days. We take a
4 picture, and then we started advertising. So we must
5 sign the contract.
6 Q. Okay. And then you testified that you got
7 some inquiries from it, correct?
8 A. Yeah.
9 Q. More than one?
10 A. Yeah.
11 Q. Okay. And how are those inquiries documented?
12 Do you put them in an E-mail? Are they notes? How do
13 you follow up on them in your office?
14 A. The office do. I have no control, because the
15 processor in the office is doing it. So they put what
16 they have in. They normally do is in order to receive.
17 Q. So do they enter it into the computer
18 anywhere, saying here is the inquiries we have, here is
19 the contact information? How do they handle that?
20 A. They usually, when they receive it, a lot of
21 them, it's by paper. So they receive it, and whatever
22 the people pay the rent, pay the fee and the deposit,
23 and they have -- that's how they do it.
24 Q. So do they give their application with the
25 application fee as well?

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1 A. Yeah, the application fee, yes.
2 Q. Okay. Because there was no applications in
3 this. The documents we were provided, there was no
4 copies of checks or receipts for cash payments. There
5 is nothing that you provided in this file.
6 A. Normally, when they do, they are the income
7 statement. So I don't know. I am not doing accounting
8 or anything, so I don't know exactly if they have them
9 there or not.
10 Q. I'm going to refer you back to the documents
11 you provided for the Burberry address.
12 And if Madam Examiner would look through
13 there, there is an application in here for this
14 property, but there is no application or any other type
15 of document regarding an inquiry or other people that
16 paid a fee that were interested in this property. Can
17 you explain that to me?
18 A. Yeah, the only thing I have to go back to the
19 office and see any -- if we have a paper trail, and I
20 have to -- so I don't know nothing about this.
21 Q. Okay. So when you told me earlier that you
22 provided all of the documents that were responsive to
23 the subpoena, you really don't know if you provided all
24 of the documents that were responsive to the subpoena;
25 is that true?

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1 A. So whatever I not got it, I provide it.
2 Q. Okay.
3 A. So I don't -- because I'm not accounting, I
4 don't know how they handle that application fee, or not
5 it.
6 Q. Do you understand what a subpoena is?
7 A. No.
8 Q. You don't at all?
9 A. A little bit.
10 Q. Okay. You understand that it's under penalty
11 of perjury that you are providing all of the documents
12 that are being requested?
13 A. Uh-huh.
14 Q. Do you understand that? Do you understand
15 that now?
16 A. Okay. I guess so.
17 Q. Okay. So if there was other documents that
18 are in a file or on a computer, how come those weren't
19 provided to counsel?
20 A. Whatever I get it, I just, on the file, I send
21 it out to Mr. Agarwal.
22 Q. So there is no application and --
23 MS. PATTERSON: I just want to put on the
24 record that because you did not produce other documents,
25 the Hearing Examiner can only go by what was submitted;

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1 and what was submitted does not include applications; it
2 does not include things that she's pointing out. So she
3 has to take that into consideration.
4 Your statement that you had five people or
5 something applying and they applied, but you didn't give
6 us the documents to verify what you are saying. So the
7 weight of the evidence is not as strong, because we
8 don't have documents. I just want to put that out
9 there.
10 BY MS. BICKEL:
11 Q. And then you testified that you did everything
12 by the book. You did the background check, correct?
13 A. Yes.
14 Q. And is it your custom and practice to do
15 background checks before you approve someone to rent a
16 property?
17 A. Yeah, we run the credit, whatever the credit
18 is, so we run through all of that. So that's
19 all whatever possible from what we get from the credit
20 report.
21 Q. Because it's important, as a responsible
22 property manager, to make sure that the people that you
23 are renting to are the best people to protect your
24 client's property, correct?
25 A. True. True.

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1 Q. And are you aware of the Sacramento City Code
2 on responsible property management? Are you aware of
3 that?
4 A. No.
5 Q. No? So the Sacramento City Code section --
6 MR. CAMACHO: 8.08.0 --
7 MS. BICKEL: What is it?
8 MR. CAMACHO: 8.08.050.
9 BY MS. BICKEL:
10 Q. 8.0 -- 8.08.050, which is Exhibit Q to the
11 City's binder, tells -- it's about responsible property
12 management. It's the code that overlies everything a
13 property manager or a property owner does. And it's so
14 that the people of Sacramento are protected from
15 irresponsible or negligent property owners that cause
16 things like this to happen.
17 You are not aware about that code at all?
18 A. No.
19 MR. AGARWAL: I object to the characterization
20 of the code.
21 MS. BICKEL: The code speaks for itself. You
22 can disregard what I said.
23 THE HEARING EXAMINER: Thank you.
24 BY MS. BICKEL:
25 Q. So let's look at that background check you

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1 did. Do you do a background check for every tenant
2 that --
3 A. Yeah, we --
4 Q. -- lives there?
5 A. -- run the credit check.
6 Q. For everybody? So if it's more than one
7 adult, you do it for both adults?
8 A. That's how we do.
9 Q. So that same Exhibit M, the credit check is
10 following that residential lease agreement. And it's
11 only for You Kai Lin. There isn't one for the other
12 tenant.
13 So are you saying that that exists, but it
14 just wasn't provided?
15 A. Did we miss that one?
16 Q. You can't talk to him. If you want to step
17 outside and talk to him, you can, but right now, you
18 have to answer my questions.
19 A. We have both.
20 Q. And you said that you looked over this credit
21 application and nothing in it concerned you, correct?
22 A. Yeah.
23 Q. Did it -- well, let me -- actually, if I can
24 point everybody to it, the rental agreement was signed
25 on the 19th -- excuse me -- the 21st -- excuse me, no --

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1 the 19th of August. And this report wasn't obtained
2 until August 23rd, so four days after you entered into
3 the residential lease agreement. Isn't that against
4 your custom and practice?
5 A. No.
6 Q. No? Why not? Why wouldn't you do that before
7 they moved in?
8 A. The credit report run before. Normally, we
9 run before we do. So maybe -- I don't know why they did
10 this. The credit before, we have to run the credit
11 before we give them the contract.
12 Q. Okay. But this one was actually run
13 afterwards, so that would be not --
14 A. Maybe we do printout from the day.
15 Q. -- in your custom and practice.
16 (The Reporter requested clarification.)
17 THE WITNESS: Maybe we do a printout, the day
18 printout.
19 BY MS. BICKEL:
20 Q. No, this says report date on the top,
21 8/23/2017. The printout date, which is in very tiny
22 letters on top, says 12/31/2008.
23 But, yeah, it says it was obtained four days
24 after the agreement was signed. That's not good
25 management practices, is it?

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1 A. No, we supposed to be run credit before, but I
2 don't know what missed there.
3 Q. And then one of the things that is important
4 when you are screening a potential tenant is to make
5 sure they have an income that can pay for \$1,850 a
6 month, isn't it?
7 A. Yeah.
8 Q. Okay. Nothing on here indicates that Mr. Lin
9 is employed. Isn't that -- that didn't concern you?
10 A. No, because, normally, they say they come here
11 to open a restaurant and they just -- they have to show
12 the statement, the bank statements, they have the money.
13 And, normally, we just run the credit. And if it good,
14 then we put it in. If they have really good credit, 700
15 something score -- and, normally, our rental people have
16 that kind of score, we never have a problem on them not
17 paying rent.
18 Q. You just said something important. You said
19 when there isn't an employer, that you get a bank
20 statement. But no bank statement was provided.
21 A. No, they don't provide. They show it. We
22 don't want to keep it. That's for privacy. So we just
23 review it and we return it.
24 Q. Is there somewhere that you note that you
25 reviewed a bank statement and it was showing adequate

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1 income?
2 A. Normally, we do. We have a question about the
3 income, we always review it. But after we reviewed it,
4 okay, they prove it, and then that's it. We don't keep
5 those.
6 Q. And something else I see that's missing from
7 this file is a proof of identification. There is no
8 copy of a driver's license.
9 Isn't that custom and practice in this
10 industry to get a copy of the driver's license of people
11 that are going to be living in properties that you're
12 managing?
13 A. We do have a copy of the driver's license.
14 Q. You have it, but it just wasn't provided?
15 A. I think I sent to -- I sent to Mr. Agarwal
16 everything, so they have E-mail. I give a copy to the
17 owner, too, so --
18 Q. So you believe you provided a copy of
19 Mr. Lin's driver's license to Mr. Agarwal, and he did
20 not provide it to us? Is that what you're saying?
21 A. I provide to the owner and --
22 Q. Okay. Why didn't you provide it as part of
23 the subpoena?
24 A. I thought they have everything. They
25 communicate -- I thought they have everything.

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1 Q. Did you review the documents before you
2 provided them to Mr. Agarwal to ensure that they were
3 complete? No?
4 A. I don't --
5 (The Reporter requested clarification.)
6 BY MS. BICKEL:
7 Q. So you provided documents to Mr. Agarwal based
8 on what you thought was everything in your file,
9 correct?
10 A. Yeah, I thought everything -- also, I do
11 provide some for the owner, the driver's license, the
12 Social Security and everything, contract, everything to
13 the owner. I thought the owner will give it to the
14 lawyer, his lawyer. So that's why I thought everything
15 there. So whatever that's left over, I send it.
16 Q. Okay. But, earlier, you said you provided
17 everything in your file, and now we are finding out that
18 there is a lot of things that are missing.
19 Did you review this to make sure everything in
20 your file was copied and being provided?
21 A. Yes, I did review some of them, and then I --
22 some of them, I only send it out to the owner; and some
23 of them, I send it to the owner already.
24 Q. And, actually, if we go back to Burberry
25 again, I believe that, in that packet, it does show the

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1 application, it provides information on employment, it
2 has -- I think this one actually only did a credit check
3 for one as well.
4 Is that just a cost-saving device where you
5 only do one person to make sure that they -- their
6 credit check runs properly?
7 A. What did you say again?
8 Q. So on the Burberry property, you only did one
9 credit check as well. There was four people that are
10 listed on the application, but you only did one credit
11 check on that property as well.
12 Is that just a cost-saving device instead of
13 running checks on everybody?
14 A. Yeah, we just run one. If they have good
15 credit, and some of them, we don't do -- need to do all
16 of them.
17 Q. Okay. But what if one of the people that you
18 didn't run a credit check on had a criminal background?
19 Isn't that something that might be important in making a
20 decision as to whether or not to rent this property to
21 those people?
22 A. Okay. By law, even they have criminal, we
23 cannot deny the resident.
24 So, you know, only thing we have to be --
25 watch, that's all. If they have -- even have criminal,

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1 by law, we cannot deny any -- or the people say, Oh, you
2 have criminal, I don't rent it to you.
3 Is that law right?
4 Q. I don't know.
5 A. If you say, you know, that's the law, you say
6 no, you cannot -- you cannot discuss people's criminal
7 record. You still have to rent it to them even if
8 they -- and sometimes they only have criminal, but they
9 already change their life. We don't give people a
10 second chance?
11 Q. But if there is more than one applicant for
12 the house, and someone has a criminal background and
13 someone doesn't, wouldn't you -- and they are equally
14 qualified candidates, wouldn't that tend to lead towards
15 going with someone who is not a criminal?
16 A. So we just be sure the tenant is
17 responsibility, the one that -- whoever responsibility,
18 the one, we just make sure that we run that one, yeah.
19 Q. And are you also -- when you said there was
20 nothing else on the report that caused you issue, on
21 Mr. Lin's report, he has no rent payment history. That
22 wouldn't be something that would raise a concern for
23 you, that he's never paid rent anywhere else before?
24 A. No, they don't have -- they pay rent on time,
25 they don't have --

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1 Q. No. No. I'm talking about in the credit --
2 in the background check.
3 MR. AGARWAL: Perhaps you could show it to him
4 so he knows what you're pointing at.
5 BY MS. BICKEL:
6 Q. So on page 3 of 3 -- sorry -- page 3 of 3,
7 see, at the very bottom, it says, rent payment history,
8 no rent payment history.
9 Isn't that a red flag that might concern you,
10 that this person has never --
11 A. No, because they have all of the records --
12 (The Reporter requested clarification.)
13 THE WITNESS: On the credit report, everything
14 have been paid on time.
15 BY MS. BICKEL:
16 Q. Okay. And then I would like to move you to --
17 you have a ledger that you were talking about before.
18 Let's see. It's a tenant ledger?
19 A. Yeah.
20 MS. PATTERSON: That's Number 17 in the
21 appellant's binder.
22 MS. BICKEL: Okay. Maybe you can give it to
23 him --
24 THE WITNESS: Yeah. Yeah.
25 MS. BICKEL: -- so I don't have to stand over

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1 there, because I'm going to ask him about it.
2 MR. AGARWAL: I have notes on mine, so I don't
3 want to.
4 MS. BICKEL: All right.
5 MR. CAMACHO: We have a binder that was
6 provided for us, so I'm happy to.
7 MS. BICKEL: Thank you.
8 MR. CAMACHO: I'm sorry, counsel. You said it
9 was 17?
10 MS. PATTERSON: Number 17 in the appellant's
11 binder.
12 MS. BICKEL: So I don't have to stand over his
13 head.
14 MR. AGARWAL: There is a black binder there, I
15 think.
16 MS. BICKEL: Oh, there is? Well, that's okay.
17 BY MS. BICKEL:
18 Q. Okay. So this is the tenant ledger for
19 8651 Forte Street, correct?
20 A. Yes.
21 Q. And this is only for Mr. Lin, correct?
22 A. Yes.
23 Q. Okay. I want to note that there is some odd
24 rent payments. Instead of paying 1,850 all at a time,
25 there is several instances throughout the document that

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1 showed multiple payments.
2 For example -- let's see. If you go to the
3 second page -- I'm sorry. As of April 30th, that looks
4 like there is some separate payments for -- there is an
5 extra -- oh, I'm sorry. Sorry.
6 MS. PATTERSON: July.
7 BY MS. BICKEL:
8 Q. June 4th, it looks like there is a \$500
9 payment, \$1,000 payment, and a \$350 payment all for
10 rent.
11 Is that normal, that you let people pay in
12 multiple payments?
13 A. No, because they pay money order. See, the
14 money order, they have probably a limit on the money
15 order. That's what the money order pays.
16 Q. And what about down below that, on July 2nd
17 and 8/30, they are also paying cash? So if you look at
18 8/30, there is a \$325 cash payment, two \$500 payments,
19 and another \$850 cash payment. That's not something
20 that's bad to you?
21 A. Sometimes they pay the utility, so sometimes
22 they don't buy money orders. And whatever they come in,
23 whatever the form they pay, we put into our record.
24 Q. Okay. So but is that normal for people to
25 pay --

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1 A. We don't question people how they pay and what
2 kind of form they pay.
3 Q. Now, you talked about earlier how the tenant
4 has to pay their own utilities, correct?
5 A. Okay. This one is because the water and
6 sewer, and we don't want -- some owners don't want
7 tenants to pay, because due to they are going to lien to
8 the property if the tenant not pay. That's why the
9 owner pay for it. We collect it back from the tenant.
10 But not SMUD, because SMUD, they can transfer
11 under their name, own account. So this one is just for
12 water and consolidated bill.
13 Q. And the gas bill, correct?
14 A. Yeah, no, the gas bill, normally, it's PG&E,
15 because a lot of times, they didn't transfer and the
16 PG&E, that's SMUD -- I mean, the gas, the gas is the --
17 some of them were paid by the owner, and then we collect
18 back to for the owner.
19 Q. Okay.
20 A. Whatever the owner helped to pay, then we will
21 collect it back. That's why we have the communicate of
22 E-mail, because the owner send it to us and say, okay, I
23 pay that month to month, please collect back for me, and
24 that's what we do.
25 Q. I think you testified earlier that you have

Page 179

1 communicated with Mr. Wang via E-mail in the management
2 of this property, correct?
3 A. About the utility bill. The office, they send
4 to the office, office upload, okay. Whatever Mr. Wang
5 pay, the utility office upload it, and then when the
6 tenant pay rent, we let them know, okay, you have the
7 utility bill, you should pay that, too.
8 Q. But those E-mails weren't provided as part of
9 the documents that were supposed to be responsive to the
10 subpoena, correct?
11 You provided the bills, but you didn't provide
12 any E-mails, correct?
13 A. What do you mean the bills? The bills, the
14 owner provide to us.
15 Q. Right. But you said he does it via E-mail, so
16 there is going to be an actual written-out E-mail that
17 says, "Attached, please find," or something like that.
18 A. Yeah. Yeah.
19 Q. But none of those E-mails were provided.
20 A. We have to provide you -- I have to send a
21 couple to -- E-mails forward, forward the owner E-mail
22 to her attorney --
23 Q. Okay.
24 A. -- the attorney.
25 Q. But you didn't understand that when you were

Page 180

1 responding to the subpoena that you had to provide
2 everything in your possession regarding this property.
3 Is that a fair statement?
4 A. That's why I forward all of the conversation,
5 whatever I have. Sometimes I E-mail, a couple of
6 months, only one E-mail. So we collect everything, and
7 whatever I have, I forward to the attorney, Mr. Wang's
8 attorney.
9 Q. Okay.
10 A. That's what I did.
11 Q. This tenant was there for over a year,
12 correct?
13 A. Huh?
14 Q. This tenant was there for over a year,
15 correct?
16 A. Actually, over a year. Actually a year, year
17 something, so yeah.
18 Q. You said you went month to month to month
19 after the year was up.
20 A. Yeah, October, I mean, October, and then
21 another October, year, so only a month over the lease.
22 Q. Okay. But there was only -- oh, sorry.
23 A. Yeah.
24 Q. There was only about three months for the
25 bills that are provided as part of the documents you

Page 181

1 provided. Where is the bills for the rest of the year?

2 A. So sometimes the owner haven't sent it to me,

3 so I didn't get -- whatever he send to us, we enter it.

4 If he don't send it to us, we don't know what the amount

5 charged.

6 Q. Then how come there is amounts in the ledger

7 for other utilities, dates other than what you have

8 provided? Does that mean -- how did you get that

9 information?

10 A. That's from Mr. Wang. So whatever he send it,

11 we upload it, we update it.

12 Q. So what I'm saying is, the ledger shows

13 several months worth of utilities that were provided,

14 but the documents provided do not reflect all of those

15 months. Is there a reason why those weren't provided?

16 A. Whatever I have on the E-mail. Sometimes the

17 E-mail is old. I don't know if I still can pull it out.

18 Sometimes I do. But whatever I type in the name or

19 whatever they have, I forward it, so --

20 Q. All right. And being a property manager, are

21 you familiar with -- even though I know you didn't know

22 about the SMUD usage, are you familiar with standard

23 amounts of usage that someone in a residential home will

24 use?

25 For example, when you are getting these gas

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1 bills from PG&E -- and gas is used for hot water, you

2 know, for showers and doing dishes and doing laundry --

3 and you have seen the amounts that your clients send you

4 for their bills or the bills that you are getting for

5 this, right? You have seen these on many other

6 occasions, right?

7 A. The gas bill?

8 Q. Yeah. Yes. Yes.

9 A. The gas bill, we see the gas bill, whatever

10 the gas bill they use, so --

11 Q. Right. Well, didn't it seem odd to you --

12 A. We don't see the electric bill. We never see

13 the electric bill.

14 Q. Right. But so you saw the gas bills in this

15 case, right?

16 A. The gas bills? No, I don't see the gas bill.

17 But whatever office, they received it, they just upload

18 it. So whatever Mr. Wang pay, so we just collect it.

19 Q. Okay.

20 A. So we don't -- we don't know what their usage

21 supposed to be for them.

22 Q. So as part of your property management

23 responsibilities, you don't review bills to ensure that

24 the people that are at these properties are not doing

25 something strange? I mean, wouldn't you notice

Page 183

1 something from a very high bill or a very low bill?

2 A. The gas bill never get so high. How do you

3 know?

4 Q. What about low? Because the ones that you did

5 provide, which are part of that same exhibit, in

6 September of 2017, it's \$6.78; in October of 2017, it's

7 \$6.86; and in November of 2017, it's \$5.77.

8 That seems like extraordinarily low for the

9 normal two people living in a house, taking showers,

10 doing dishes, and doing laundry, doesn't it?

11 A. Okay. That really don't -- that we are not

12 going to be considering something, because sometimes

13 people don't use this much. Like my house, I have ten

14 people, but I only have \$30 bill for the gas.

15 So sometimes you got electric for heat or

16 something, so it doesn't mean it's the gas is going to

17 be -- showing less gas is going to be a problem. So I

18 am not aware.

19 Q. So I think your answer is that you don't look

20 at those types of things to see if there is anything odd

21 there.

22 A. No, we don't look at this. Whatever we

23 receive, we just enter, we just collect the bill for the

24 owner. We never look at, Oh -- we never question, Oh,

25 what is only \$2.00, \$3.00. We don't. We don't.

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1 Q. And how did you collect rent from this tenant?

2 Was it in person? Did they come to the office? You

3 said it was cashier's checks, like --

4 A. Okay. Depends. I do have some tenant pay

5 on-line. I do have some tenants send check. I do have

6 some people come to the office. So, you know, so many

7 different type of a payment. We are not going to be --

8 say, Oh, you come to the office, payments, something,

9 no. Whatever they --

10 Q. So if they pay by check, you keep a copy of

11 that check, right?

12 A. Whatever. We don't -- we are not going to

13 make a copy of the check. We enter into the computer.

14 We just go deposit. They don't give right back. The

15 bank won't give it back.

16 Q. You don't copy it though before you deposit it

17 in the bank?

18 A. No, we don't need to.

19 Q. Because you don't --

20 A. We don't need to make a copy of the check and

21 put on file, no.

22 Q. You don't.

23 A. We enter the check number into the system, and

24 then we bring the check to deposit.

25 Q. You don't think that's best practices to keep

| | |
|--|--|
| <p>Page 185</p> <p>1 a copy of checks for thousands of dollars that you are 2 getting on behalf of your clients? 3 A. I don't think we have to, because everything 4 on the bank record. If the check bounce, they send out 5 the notice that the check bounce. Because they don't 6 even send out the original check no more. They send out 7 the copy. 8 Q. What about the cash? Did you give them a 9 receipt if you received cash? 10 A. Yeah, no, we have the computer. We enter it 11 and give them receipts, of course. 12 Q. All right. And -- 13 A. Even pay by check, we give them a receipt, 14 too. 15 Q. Okay. 16 A. Not just cash, yeah. 17 Q. Do you keep copies of the receipts that you 18 provided? 19 A. Huh? 20 Q. Do you keep copies of receipts that you 21 provided? 22 A. No, any time you want to print, we can print 23 it out to individual -- 24 (The Reporter requested clarification.) 25 THE WITNESS: I can print individual, what</p> | <p>Page 187</p> <p>1 later or sooner, they phase out, they may lose and 2 misplace it. The computer is the best, website storage. 3 Q. And you indicated that you had absolutely no 4 idea what was going on at the property -- 5 A. No. 6 Q. -- correct? 7 And that you had absolutely no idea that 8 somebody went in and completely fixed the property 9 before -- 10 A. No. 11 Q. -- Mr. Wang returned. 12 But you hadn't been to the property in over 13 ten months by the time you found this out, correct? 14 A. So, like I say, we normally doing our practice 15 to check the houses on the holiday, before the holiday, 16 like November. We have so many. We have to schedule. 17 We have to send out sometimes an E-mail or sometimes 18 they not respond. We have to put notice and let them 19 know, okay, we are going to be coming to do the 20 inspection. 21 Sometimes, you don't know. When you send a 22 note out, you say, okay, that day, we will come and 23 inspection. If they do something, maybe they will clean 24 up, so we may not know anything. Okay? 25 We are not a specialist and we do not</p> |
| <p>Page 186</p> <p>1 they did pay, individual month. We can go back in and 2 pick individual month for you, if you want to. 3 BY MS. BICKEL: 4 Q. And that's the tenant ledger that we were 5 looking at. 6 A. On the tenant, yes, on the tenant, owner. 7 After we receive the money, we collect all fees, we send 8 money to -- electronic send money to the owner account. 9 Q. And you don't keep any other record other than 10 what's put in the computer of payments received by a 11 tenant; is that true? 12 A. Everything we enter in the computer, that's 13 what we have to do. So everything in the record, even 14 ten years from now, you can pull the record out, how 15 much they pay, and the same thing with right now. You 16 show the statement. 17 Q. What happens if your computer crashes? What 18 are you going to do then? 19 A. We have -- we have the on-line with the Folio. 20 So our computer crash, not on our computer. It's on the 21 big company, corporation. So my computer crash, you can 22 use another computer to log in. 23 Q. So you don't keep any paper copies of 24 anything. 25 A. No, we try not to, because paperwork is --</p> | <p>Page 188</p> <p>1 investigate or anything. We just go in and, you know, 2 sometimes, I do the inspections, sometimes it's my 3 office do the inspection. 4 You go in and make sure the smoke alarm is not 5 going to be take off. A lot of tenants, because the 6 battery beeping, they take it off. So we make sure the 7 battery is not taken off and everything is work good 8 condition. That's all we do. 9 Q. What if someone doesn't pay rent? What do you 10 do then? 11 A. If they don't pay rent? 12 Q. Do you contact them? 13 A. Huh? 14 Q. Do you contact them? 15 A. No. When the tenant don't pay rent, and we 16 will send the E-mail, and also we got to put the 17 three-day notice. That's all we put on the front door. 18 We can't even get in the house. If we have, go to the 19 property, and serve the paper. If they in front of the 20 house, we just serve them. If not, we just post and 21 mail. 22 Q. Did you have to do that with regard to Mr. Lin 23 ever? 24 A. No, never. 25 Q. Because I don't know if you remember the</p> |

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1 Officer's testimony, but Mr. Lin told the officer that
2 he hadn't paid rent in two or three months.
3 A. No. I don't know what he say, because our
4 records says all rent in.
5 Q. But the record is something that you create or
6 someone in your office creates.
7 A. No. I am not going to take my money, if not
8 collecting money, to pay somebody. We don't. Whatever
9 we collect, the office receive the money, and then pay
10 the owner.
11 Q. And how do you pay the owner?
12 A. We pay by E-check, electronic.
13 Q. Do you have copies of any of those E-checks?
14 A. Yeah, whatever the E-check, we send it out to
15 the owner. So on our record, it's showing sending to
16 the owner.
17 Q. Okay. Did you --
18 A. We don't -- like same thing, same thing with
19 the tenant ledger.
20 Q. So the only evidence of the E-check is what is
21 in the tenant ledger? You don't have, like, an
22 electronic version of it?
23 A. The owner have -- every time we send to the
24 owner, the owner bank, they will have the amount on
25 there, from who. That's how we do it.

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1 Q. But you don't keep a copy of that?
2 A. We have an owner statement.
3 Q. You have an owner statement. Is that
4 different than the tenant ledger?
5 A. Not in the tenant ledger. That's owner
6 statement. Different.
7 Q. Did you provide the owner statement in
8 response to the subpoena?
9 A. The owner -- because we don't send it to the
10 owner, the owner can access 24 hours to get all of the
11 statements they want. They even, ten years from now,
12 they still can go in. They have a log-in. They can go
13 in and get all of the statements and cash flow.
14 Q. But you have access to the statement, don't
15 you?
16 A. Huh?
17 Q. You have access to the statement, don't you?
18 A. No, we send the E-mail to the owner and the
19 owner -- the owner can log in any time.
20 Q. Okay. But so you send E-mails to Mr. Wang
21 with his statement, right?
22 A. No, we just send -- we just send the money to
23 the account. But if they want to see anything, they can
24 log in and see their record.
25 Q. But what I'm trying to say is, the record that

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1 you are talking about was not provided as part of the
2 subpoena, correct?
3 A. Normally, the owner have it, so that's why I
4 don't provide to the owner. Owner can go in and get the
5 statement any time.
6 Q. So can you, though, right?
7 A. Huh?
8 Q. You can go in and get the statement any time
9 though, right?
10 A. I think so, yeah.
11 Q. Right. But didn't provide it.
12 A. No, I -- I don't know.
13 MS. BICKEL: Okay. May I have just a moment
14 to look over my notes? I think I'm just about done.
15 THE HEARING EXAMINER: Uh-huh.
16 MS. BICKEL: No further questions.
17 REDIRECT EXAMINATION
18 BY MR. AGARWAL:
19 Q. Just a few questions. Mr. Hin, you were asked
20 a bunch of questions about did you do this document, did
21 you do that document, did you do this in response to a
22 subpoena. And you did retain me to help you respond to
23 that.
24 A. Yes, I asked for help, because -- I asked for
25 help, because I don't know something.

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1 Q. You don't know what the legal document means,
2 what your obligations are, right?
3 MR. AGARWAL: I'll represent to the Hearing
4 Examiner, whatever he gave me, I turned over.
5 (Interruption by the Reporter.)
6 THE HEARING EXAMINER: I can't hear you.
7 MS. BICKEL: I can't hear him either.
8 MR. AGARWAL: I have turned over whatever
9 Mr. Hin gave me, and there should be no insinuation that
10 I somehow withheld something.
11 BY MR. AGARWAL:
12 Q. All right. Let's talk about how you had to
13 comply with the subpoena.
14 (Interruption by the Reporter.)
15 BY MR. AGARWAL:
16 Q. How you had to comply, how much time you had
17 to comply with that subpoena.
18 MS. BICKEL: Comply with what?
19 BY MR. AGARWAL:
20 Q. You were served on a Monday; is that right?
21 Do you remember?
22 A. Yeah, I guess so, yeah.
23 Q. And you were out of town that weekend before,
24 right?
25 A. Yeah.

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1 Q. And you had to respond by Friday, right?

2 A. Yeah.

3 Q. Did you --

4 A. I don't remember the date.

5 Q. You don't remember the date? Let me show you

6 documents, letters with counsel on this.

7 Did you do your best to try and go get all of

8 the documents that you could find? Did you try to do a

9 reasonable search and provide documents to counsel, to

10 me, and then to them? You know, are you trying to omit

11 things on purpose?

12 A. No. No. I just, you know, whatever -- you

13 know, I never seen this before, the subpoena before. I

14 never know what to do, so I just ask for your help,

15 whatever I can. You know, I just --

16 Q. Okay. So you did a reasonable collection and

17 you provided them in the four days that you best could,

18 right?

19 A. Yeah.

20 Q. Do you know if it's reasonable to provide a

21 four-day turnaround for a subpoena?

22 A. No.

23 Q. Okay. Let's talk about this Burberry Way.

24 Okay? Now, this is a property -- and it says there it

25 looks like another grow house, right? And these folks

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1 on this side, the City Attorneys, and police department

2 issued this penalty. Okay? The date of the violation

3 is kind of end of 2017.

4 Did they send you a copy?

5 A. Huh?

6 Q. Did they send you a copy of this?

7 A. No.

8 Q. Did the owner send a copy of it to you?

9 A. The owner, the owner, yes. The owner remind

10 me, yes.

11 Q. When?

12 A. I don't know. I don't recall the day.

13 Q. Did the City ever blame you for that?

14 A. No.

15 Q. Did they ever sue you?

16 A. No.

17 Q. Did they ever fine you?

18 A. No.

19 Q. Did they ever tell you you needed to do

20 something different?

21 A. No.

22 Q. Now, there was a representation that this was

23 the result of a subpoena to you. Did you ever see a

24 subpoena for anything about Burberry Way?

25 A. No.

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1 MR. AGARWAL: Counsel, let me finish.

2 MS. BICKEL: That was withdrawn. That was

3 withdrawn.

4 BY MR. AGARWAL:

5 Q. Counsel then said, no, no, it was part of a

6 settlement discussion that he got them as he was

7 discussing settlement with somebody else. I don't know.

8 Maybe the tenant, maybe the landlord.

9 Were you involved in those settlement

10 discussions?

11 A. No.

12 Q. In the last five years, how many different

13 properties have you managed?

14 A. We have managed probably about like 3- to 400.

15 Q. In three years.

16 A. Huh?

17 Q. So some properties you manage consistently,

18 right, each year?

19 A. Yeah.

20 Q. There is different properties over time. In

21 the last ten years, how many different properties have

22 you managed?

23 A. What do you mean?

24 Q. 8651 is one property, right? Burberry Way is

25 another property. Different properties, right?

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1 So you managed some properties every year

2 consistently. So 2017, you managed this property; same

3 property you managed in 2018; same property you managed

4 in 2019.

5 My question is, how many different properties

6 have you managed over the last five years?

7 A. Okay. We continue managing and we have new

8 property in.

9 Q. Okay.

10 A. So it continue. We continue. Some property,

11 we manage a long time.

12 Q. All right. So --

13 A. Yeah.

14 Q. -- if you combine all the ones that you are

15 doing, plus all of the ones that you have got and lost

16 or changed or got sold, totally different properties,

17 4- or 500 properties in the last five years?

18 A. No, we continue to manage, so we don't have

19 many problem.

20 Q. You don't have too much turnover.

21 (Interruption by the Reporter.)

22 THE WITNESS: Yeah, we continue managing.

23 BY MR. AGARWAL:

24 Q. You don't have too much turnover.

25 A. We don't have no turnover. Some people, maybe

Page 197

1 a couple lately, and we have a couple property owner
2 want to sell, because the price, it go up, they want to
3 sell it. That's all.
4 Q. Okay.
5 A. That's all.
6 Q. So some people leave because they sell their
7 home.
8 A. They sell their home, yes.
9 Q. Okay. And some new people come because they
10 bought a home.
11 A. Yes.
12 Q. Okay.
13 A. Most of the people, they go, because the value
14 go up. When they bought the property, it was
15 foreclosure time, and they make a lot of money. They
16 say, okay, I got to get out of the industry, I sell it,
17 so --
18 Q. Have you ever been sued for negligent property
19 management?
20 A. Huh?
21 Q. Have you ever been sued for negligent property
22 management?
23 A. No, sir.
24 Q. Have you ever been fined for negligent
25 property management?

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1 A. No.
2 Q. Have you ever been given any kind of penalty
3 for negligent property management?
4 A. No.
5 Q. Has anybody ever said to you you're a bad,
6 bad, negligent property manager?
7 A. No.
8 Q. This property at 8651 Forte, would you
9 describe it as property for middle income, high income,
10 or low income?
11 A. What -- what's --
12 Q. Is it a high-end property?
13 A. Uh-huh.
14 Q. Or a low-end or middle-end property? Maybe
15 I'm not being clear. Let me be more blunt.
16 Is the property for rich, rich people?
17 A. No, we only manage every property like it's --
18 not like a high-end, no.
19 Q. You do your best to manage the properties that
20 you get, right?
21 A. Yes.
22 Q. And do you always get the best tenants?
23 A. No, we have a lot of good tenant. We have a
24 lot of them.
25 Q. Okay. And you have some that maybe are not as

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1 perfect.
2 A. Yeah, some of them is good on the beginning,
3 initially, and then they cannot pay. So, you know, we
4 do have a lot of bad tenant. But, normally, it's pretty
5 good on the first year.
6 Q. Okay.
7 A. And then later on, they stop. They lose a job
8 or they got accident on the job. They couldn't work.
9 They have -- and you do have bad. Not every -- every
10 property management can guarantee you take the tenant
11 and it's going to be forever good, so no.
12 Q. And sometimes you can't predict, right?
13 A. Huh?
14 Q. Sometimes you can't predict it.
15 A. Yeah, you cannot predict it. That's for sure.
16 Q. And hindsight is a very powerful thing. You
17 should have done this, you should have done that, you
18 should have done this, did you do it on this day, did
19 you do it on that day, right?
20 A. Yeah, so the contract, whatever you wrote, the
21 people are going to follow or not. See, I do have other
22 tenant, we give them -- they violate --
23 (The Reporter requested clarification.)
24 THE WITNESS: -- they never cut the grass,
25 they are going to put a lot of junk in the house, and

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1 they put lots of junk in the street.
2 BY MR. AGARWAL:
3 Q. Slow down for the court reporter.
4 They put junk on the street. And then you try
5 to get that cleaned up.
6 A. Yeah, we got the notice from the City.
7 Normally, the City will send out the violation and say,
8 okay, you have ten day, or property manager, or property
9 owner, you have ten days to clean up, because your --
10 they take a picture.
11 But, you know, normally, if we receive
12 something like that, we are aware of it, and then we
13 take care of it.
14 Q. Okay.
15 A. But if we don't aware, we cannot prevent.
16 MR. AGARWAL: Thank you for coming.
17 THE WITNESS: Yes.
18 MR. AGARWAL: Thank you for voluntarily
19 coming.
20 RE CROSS-EXAMINATION
21 BY MS. BICKEL:
22 Q. Just a few more questions. I promise I won't
23 keep you much longer.
24 A. Okay.
25 Q. Just going back to Exhibit L, the original

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1 subpoena that you said afterwards you received, you
2 provided documents to your counsel, was served on
3 February 25th, 2019.
4 When the copy service went back on March 12th,
5 2019 -- and this document is in there as well -- you
6 advised the City that you already sent the records to
7 your attorney.
8 That's over two weeks. That's not four days.
9 That should have been enough time to figure out what you
10 had in your files and what you didn't, isn't it?
11 A. Okay. On this time, I was prepared to leave
12 our country for vacation. And I do -- because I assume
13 I have send a lot of them to the owner, I thought they
14 would already have that. So, you know, whatever left
15 over, I try and do the best and get to -- for help.
16 So that's what I maybe -- that I never got
17 that before, so maybe I -- that's if I misunderstand or,
18 you know, explained it for him.
19 Q. I am confused, because your testimony was that
20 you were out of the country when the Hearing Examiner's
21 subpoena was issued.
22 A. No, I was out of the country on March. I
23 wanted to give you the date in March 15th. And come
24 back on February -- I mean, April something. I
25 just don't recall the date, so --

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1 Q. All right. But as of March 12th, you already
2 told the custodian at Compex that you provided --
3 A. Yes, I send it to Mr. Agarwal. So then I left
4 a message for the people served and say, you know, I try
5 to get everything to the owner, owner lawyer, to ask for
6 help.
7 Q. Okay. So served on February 25th --
8 MR. AGARWAL: Counsel, could you state what
9 exhibit you are looking at?
10 MS. BICKEL: Exhibit L. It's after the end of
11 the -- after the subpoena, the second subpoena. It's a
12 printout from Compex. That's the first subpoena that
13 was issued in the court case.
14 MR. AGARWAL: This is the one issued to the
15 Superior Court?
16 MS. BICKEL: Correct.
17 MR. AGARWAL: Okay.
18 BY MS. BICKEL:
19 Q. So as of 3/12, you were still in the country,
20 correct?
21 A. Yes.
22 Q. And you had already provided documents to
23 Mr. Agarwal, correct?
24 A. Yeah, at that time, I talk to him so he could
25 get everything together and try to respond.

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1 Q. Okay. And then I saw on your website that you
2 were partner --
3 (The Reporter requested clarification.)
4 MS. BICKEL: I'm sorry.
5 BY MS. BICKEL:
6 Q. Your business partner and wife is Amy Hin?
7 A. Yes.
8 Q. And you have a property that you manage at
9 10 Summergate Court. Does that sound familiar?
10 A. Which one?
11 Q. 10 Summergate Court.
12 A. Summergate? I am not -- right now, I don't
13 recall, because I am not usually check all the
14 properties, so sometimes I don't remember.
15 Q. Okay. Well, I will represent to you that we
16 actually got something from the Sacramento Police
17 Department that shows a cannabis penalty, just like the
18 one issued on Mr. Wang, that was issued on April 17th,
19 2019, which the City's records indicate that you are the
20 property manager for.
21 A. No.
22 Q. So now that's three cannabis properties.
23 A. No. Nope.
24 What property is that? Can I see?
25 Q. 10 Summergate Court.

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1 A. Summergate?
2 Q. Summergate.
3 A. Nope, not on my record.
4 Q. Okay.
5 A. Yeah, I don't know why you are going to put
6 that on me, because I don't manage that property.
7 Q. Well, I'll represent to you that there are
8 City records indicating that you are the --
9 A. No.
10 Q. -- property manager --
11 (Interruption by the Reporter.)
12 MS. BICKEL: Sorry.
13 THE WITNESS: Can I look at it? I don't
14 think that I manage that property.
15 MR. AGARWAL: Let's introduce it into the
16 record.
17 MS. BICKEL: Well, I'll introduce this. Well,
18 I didn't want to, because this is from the Residential
19 Property Inspection Program.
20 MR. AGARWAL: Are you going to put it in?
21 MS. BICKEL: Well, I can --
22 MR. AGARWAL: You've got to put in the
23 penalty. I mean --
24 MS. BICKEL: It's not on a penalty. I have a
25 list of properties with a number on it that I'm reading

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1 from. This is not evidence. This is just what I'm
2 using to refer to so I have the correct number, and I
3 have written it down on another piece of paper.
4 MR. AGARWAL: Ask him the questions.
5 MS. BICKEL: I'm trying to, but you are
6 interrupting, sir.
7 MR. AGARWAL: Put the records in. You are
8 asking him to do things without looking at the records.
9 BY MS. BICKEL:
10 Q. So the question is, do you manage this
11 property or not?
12 A. No, not that one.
13 Q. And if there is documents out there that
14 indicate that you do manage it, that would be incorrect?
15 A. Yeah, because I don't know -- I don't know the
16 time. It could be before, but after, maybe not. I have
17 to look at the properties. I have to check my record.
18 Q. Okay.
19 A. I cannot tell you yes or no, but I don't -- I
20 don't recall that property.
21 Q. And if there is a rental agreement that
22 indicates that you are the property manager, would that
23 change your mind?
24 A. Okay. You have to know what the time and the
25 day. So sometime maybe, I don't manage no more and

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1 maybe the owner will take it back sometimes. We don't
2 know exactly. You have to provide me what the -- I have
3 to see that property. I have to go back and check the
4 record.
5 Q. When you are no longer managing a property,
6 how do you go about notifying the City that you are no
7 longer managing a property?
8 A. Okay. So, normally, we don't need to notify
9 the City I manage or not. So only thing is if we don't
10 manage the property, then we just -- the agreement, the
11 owner, just they cancel the contract and give the
12 property back to the owner.
13 Q. Okay.
14 A. Okay?
15 Q. It's not relevant here, but I will advise you
16 that there is a City code that provides, when you are no
17 longer managing or owning a property, you have to notify
18 the City.
19 So I would recommend you check your records,
20 and anything you are not representing anymore, I would
21 notify the City.
22 A. No, I don't think --
23 MS. BICKEL: It's not relevant here. I'm just
24 giving him information.
25 THE HEARING EXAMINER: No, it isn't relevant.

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1 MS. BICKEL: I don't have anything further.
2 EXAMINATION
3 BY THE HEARING EXAMINER:
4 Q. Okay. I have a question though. Sorry. In
5 your testimony that you have been giving to us, you
6 mentioned that the -- I have to speak into the mic now,
7 too. We are all guilty of this -- that the tenant --
8 that the tenant's job was to open a restaurant is what
9 they listed on their application to you.
10 Did he give you any documents --
11 A. No.
12 Q. -- to -- no.
13 A. No.
14 Q. He just said he was going to open a
15 restaurant --
16 A. Yes.
17 Q. -- and that's how he was going to make his
18 money.
19 (Interruption by the Reporter.)
20 BY THE HEARING EXAMINER:
21 Q. So I am just saying you received no documents
22 to verify, only his verbal word that he was going to be
23 earning money to pay rent by opening a restaurant.
24 A. No, what they do when they fill out
25 application, and they just say, okay, we move out here

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1 to start looking for the place to open the restaurant.
2 Or sometimes some people say okay -- because
3 they record is not in California. So when they move
4 from somewhere else, we say, okay, and what are you
5 going to do in here, you know. So they say, oh, they
6 provide us the bank statement and, yeah, I have money, I
7 starting to partner with a restaurant or try to open a
8 business. Most of the people, like that.
9 Q. But there were no records to back that up --
10 A. No.
11 Q. -- that were presented --
12 THE HEARING EXAMINER: Okay. Thank you.
13 MR. AGARWAL: I want to -- this persistent
14 issue about the subpoenas, I want an answer to this
15 question.
16 THE HEARING EXAMINER: Yeah.
17 MR. AGARWAL: The City attorneys, in
18 Exhibit L, issued a subpoena out of the Superior Court
19 case under the authority of the court there.
20 Compex -- he called me. Compex -- and
21 retained me. Compex called me. I said, we will be
22 responding directly to the City Attorney, and we did.
23 And that's part of the record.
24 We made very clear to the City Attorney,
25 that's an unlawful subpoena, because civil code

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| <p style="text-align: right;">Page 209</p> <p>1 procedure does not allow people to just start randomly 2 issuing subpoenas in matters that are closed. 3 I encouraged them to issue a subpoena under 4 the chapter that allows for subpoenas, Chapter 1.28, 5 which is the provisions that we tried to use to obtain 6 the subpoenas. 7 So this idea that the Witness did not respond 8 to Compex or anything is just wrong. 9 I had a specific phonecall with Compex where I 10 told them, I have this subpoena that my client has given 11 to me, and I have forwarded our response. 12 THE HEARING EXAMINER: Okay. 13 MR. AGARWAL: They kept calling him for no 14 reason, and that's why these entries are there. 15 THE HEARING EXAMINER: All right. Noted for 16 the record. Thank you. 17 MS. BICKEL: May I just respond to Mr. Agarwal 18 on that? 19 We agree that -- we just withdrew it and 20 agreed. That's why we had Madam Examiner issue them 21 instead. 22 The whole point though was they said they had 23 four days to provide records, and clearly by the time -- 24 THE HEARING EXAMINER: I understood the -- I 25 understood that.</p> | <p style="text-align: right;">Page 211</p> <p>1 both in. 2 THE HEARING EXAMINER: At the same time, yeah. 3 MS. BICKEL: I just would like to add that, 4 for the interpreter, the language needs to state that 5 they will truly and accurately interpret what's being 6 said, or not to add or subtract from any conversation, 7 or have a conversation other than the one that is 8 actually -- statements that are question, answer, 9 question, answer. 10 MS. PATTERSON: Understood. 11 Do you understand that? 12 THE INTERPRETER: Yes. 13 MS. CHAND: Please raise your right hand. 14 Do you solemnly swear under the penalty of 15 perjury that the testimony and evidence that you give at 16 this hearing shall be the truth, the whole truth, and 17 nothing but the truth? 18 THE WITNESS: Yes. 19 MS. CHAND: Thank you. 20 MR. AGARWAL: May I have the Interpreter state 21 his full name? 22 THE INTERPRETER: John Kwong, spelled 23 K-w-o-n-g. John. 24 MR. AGARWAL: Mr. Kwong, do you have any 25 personal involvement with any issues in this case?</p> |
| <p style="text-align: right;">Page 210</p> <p>1 MS. BICKEL: Thank you. 2 THE HEARING EXAMINER: Okay. Thank you. 3 All right. If we don't have any further 4 questions for Mr. Hin, it is now time, because we are 5 running late, for our owner to come forward. 6 MR. AGARWAL: Thank you. 7 THE HEARING EXAMINER: So we would like to -- 8 MR. AGARWAL: Thank you, Mr. Hin. 9 THE HEARING EXAMINER: Thank you very much, 10 Mr. Hin. 11 THE WITNESS: Thank you, your Honor. 12 MS. AUTIO: Mr. Agarwal, would you raise the 13 podium to where the mic is closer to your mouth, please? 14 MR. AGARWAL: Madam Examiner, we would now 15 call the appellant himself, Mr. -- the owner of the 16 property, Mr. Zuhu Wang. 17 Mr. Wang will be testifying through an 18 interpreter. I'll have the interpreter be sworn in and 19 representations made that are required by Chapter 1.28 20 for translated testimony. 21 THE HEARING EXAMINER: Thank you. 22 You can swear them both in. 23 MR. AGARWAL: I won't be the one swearing them 24 in. I think -- 25 MS. PATTERSON: No, no, we will swear them</p> | <p style="text-align: right;">Page 212</p> <p>1 THE INTERPRETER: No. 2 MR. AGARWAL: Have you been retained to 3 interpret this matter? Have you been hired? 4 THE INTERPRETER: Yes. 5 MR. AGARWAL: And did you know Mr. Wang 6 before? 7 THE INTERPRETER: No. 8 MR. AGARWAL: Did you know anybody in this 9 room? 10 THE INTERPRETER: No. 11 MR. AGARWAL: Do you know anybody who was 12 testifying? 13 THE INTERPRETER: No. 14 MR. AGARWAL: You are being compensated for 15 your interpretation services, right? 16 THE INTERPRETER: Yes. 17 DIRECT EXAMINATION 18 BY MR. AGARWAL: 19 Q. Mr. Wang, what do you do for a living? 20 A. Right now, I am working as a bus driver with a 21 bus company, transportation company, in San Francisco. 22 Q. How long have you worked with that bus 23 company? 24 A. I work with this company for about 12 years 25 now.</p> |

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| <p style="text-align: right;">Page 213</p> <p>1 Q. And what is the name of the company?</p> <p>2 A. Bauers Transportation, B-a-u-e-r-s.</p> <p>3 Q. And you drive people to work on buses,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And are you married?</p> <p>7 A. Yes.</p> <p>8 Q. And do you have children?</p> <p>9 A. Yes.</p> <p>10 Q. How many children?</p> <p>11 A. Two. I have one in China and I have one in</p> <p>12 America.</p> <p>13 Q. Have you ever lived in Sacramento?</p> <p>14 A. Yes. Back in 2006, I lived here for about</p> <p>15 half a year.</p> <p>16 Q. And then did you move somewhere?</p> <p>17 A. And then I moved to San Francisco.</p> <p>18 Q. We have been talking about the property that</p> <p>19 you own. Why did you buy that property?</p> <p>20 A. I bought it in July of 2017.</p> <p>21 Q. Why did you buy it?</p> <p>22 A. Because I am getting older and closer to</p> <p>23 retirement, so I like to buy property so I can live in</p> <p>24 the property when I retire.</p> <p>25 Q. Why didn't you buy a property in</p> | <p style="text-align: right;">Page 215</p> <p>1 how much the down payment was.</p> <p>2 MR. AGARWAL: Sure. I'll get to that.</p> <p>3 THE HEARING EXAMINER: Thank you.</p> <p>4 MR. AGARWAL: Thank you.</p> <p>5 BY MR. AGARWAL:</p> <p>6 Q. How much -- you paid 90 something as down</p> <p>7 payment. How much did you buy the house for?</p> <p>8 A. 370,000.</p> <p>9 Q. So between the down payment you paid and the</p> <p>10 loan, the total was about 370 something, right?</p> <p>11 A. That's right. Purchase price was 370,000.</p> <p>12 Down payment was 90,000, and I took out a loan.</p> <p>13 Q. Do you own any other properties?</p> <p>14 A. No.</p> <p>15 Q. How about the place you live in in</p> <p>16 San Francisco?</p> <p>17 A. No, I am renting.</p> <p>18 Q. And the only home that you have when you</p> <p>19 retire will be the one in Sacramento; is that right?</p> <p>20 THE INTERPRETER: How many?</p> <p>21 BY MR. AGARWAL:</p> <p>22 Q. The only home you will have when you retire is</p> <p>23 the one in Sacramento.</p> <p>24 A. Yes, that is my plan.</p> <p>25 Q. Why did you -- at some point, you decided to</p> |
| <p style="text-align: right;">Page 214</p> <p>1 San Francisco?</p> <p>2 A. Because the property value is much higher in</p> <p>3 San Francisco and it's too crowded in San Francisco.</p> <p>4 Because I had lived in Sacramento for half a year, and I</p> <p>5 liked the City.</p> <p>6 Q. How did you pay for that house?</p> <p>7 A. I save up a lot of money over the years when I</p> <p>8 was working. So I pay 90,000 as the down payment.</p> <p>9 Q. And then did you take a loan for the rest?</p> <p>10 A. That's right. I took out a loan from the</p> <p>11 bank.</p> <p>12 Q. Did you use a real estate agent to buy the</p> <p>13 house?</p> <p>14 A. Yes.</p> <p>15 Q. Just to go back, you said you were getting</p> <p>16 closer to retirement. How old are you?</p> <p>17 A. I'm 64 years old now.</p> <p>18 Q. And do you remember who the real estate agent</p> <p>19 is that you bought the house from?</p> <p>20 A. Michelle Wong. She's in Sacramento.</p> <p>21 THE HEARING EXAMINER: Counselor --</p> <p>22 BY MR. AGARWAL:</p> <p>23 Q. She's in Sacramento?</p> <p>24 THE HEARING EXAMINER: -- are you going to be</p> <p>25 getting to the purchase price of the property? We know</p> | <p style="text-align: right;">Page 216</p> <p>1 buy, and then rent your property out. Why did you want</p> <p>2 to rent it out?</p> <p>3 A. Because, at that time, I was still working in</p> <p>4 San Francisco and I am renting, which I'm still doing,</p> <p>5 and it is not practical for me to drive all the way to</p> <p>6 San Francisco to work every day.</p> <p>7 Also, my schedule is very flexible, so it is</p> <p>8 very hard for me to keep going out to San Francisco to</p> <p>9 work if I live here.</p> <p>10 Q. How did you come to meet Mr. Hin at</p> <p>11 EH Property Management?</p> <p>12 A. Yeah, I was referred to him by my real estate</p> <p>13 agent who happened to complete the purchase. I told her</p> <p>14 that I am working in San Francisco. And the condition</p> <p>15 of the property is in like-new condition when I bought</p> <p>16 it. And since I don't live in it, I would like to rent</p> <p>17 it out, because I still working in San Francisco.</p> <p>18 So my real estate agent, the lady, referred me</p> <p>19 to him to manage the property for me.</p> <p>20 Q. Did you meet with Mr. Hin before you hired</p> <p>21 him?</p> <p>22 A. No.</p> <p>23 Q. But you had a telephone call with him.</p> <p>24 A. No. After Michelle Wong, my real estate</p> <p>25 agent, gave me his phone number, so I called him, so I</p> |

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| <p style="text-align: right;">Page 217</p> <p>1 talked to him over the phone.</p> <p>2 Q. At some point, you entered into an agreement</p> <p>3 with Mr. Hin, right?</p> <p>4 A. Yes.</p> <p>5 Q. Did you at any time discuss with Mr. Hin</p> <p>6 allowing your property to be used for growing marijuana?</p> <p>7 A. No. No, because, as I said, the property was</p> <p>8 in like-new condition when I bought it. And I am a</p> <p>9 law-abiding citizen. I don't want to rent it to any</p> <p>10 other people who is not law-abiding. I would like</p> <p>11 someone, my tenants, that will take care of my property</p> <p>12 as good as me.</p> <p>13 Q. Did you come to the property to inspect it?</p> <p>14 A. Yes.</p> <p>15 Q. When did you -- when did you come to inspect</p> <p>16 it?</p> <p>17 A. I went more often before my house was rented</p> <p>18 out, because I still have to do some maintenance.</p> <p>19 Q. Okay. Did you go to inspect it after it was</p> <p>20 rented?</p> <p>21 A. Yes, once.</p> <p>22 Q. Okay. Did you ever do --</p> <p>23 A. I went inside once.</p> <p>24 Q. Do you remember when that was?</p> <p>25 A. It was sometime in the fall. My wife and I</p> | <p style="text-align: right;">Page 219</p> <p>1 cannot just barge in. I have to go through my manager,</p> <p>2 David, if I need to inspect or look at the inside of the</p> <p>3 property.</p> <p>4 Q. Did you ever have any concerns about the job</p> <p>5 that David Hin was doing?</p> <p>6 A. I feel like he's a good manager. Also, this</p> <p>7 is my only property. I trusted him and let him handle</p> <p>8 the property. When I drove by the property, it looks</p> <p>9 real good outside.</p> <p>10 Q. And you received the regular payments from the</p> <p>11 tenant, is that right, or from David?</p> <p>12 A. Yes, he did a very good job, because every</p> <p>13 month, he was doing the electronic transfer from the</p> <p>14 bank account.</p> <p>15 And, also, at that time, before I signed the</p> <p>16 management contract, I went to his office. He show me</p> <p>17 his management system and everything look so neat and</p> <p>18 formal. And that's why I liked his management style and</p> <p>19 his operation.</p> <p>20 Q. Okay.</p> <p>21 THE HEARING EXAMINER: Mr. Agarwal, excuse me.</p> <p>22 What was the amount of property management fee that the</p> <p>23 appellant was paying?</p> <p>24 BY MR. AGARWAL:</p> <p>25 Q. The rent was about 1,850, I think we saw. How</p> |
| <p style="text-align: right;">Page 218</p> <p>1 would like to go to inspect the property, so I notify</p> <p>2 David, because I would like him to go with me.</p> <p>3 Q. And, at that time, did you see anything</p> <p>4 related to growing marijuana?</p> <p>5 A. No. When I went inside, the house looks real</p> <p>6 clean. The tenants that are in it, a young lady and him</p> <p>7 staying in the house.</p> <p>8 Q. And after that visit, did you ever go to</p> <p>9 Sacramento and drive by the house to take a look if</p> <p>10 there was anything suspicious on the outside?</p> <p>11 A. Yes.</p> <p>12 Q. What do you remember when you did that?</p> <p>13 A. I don't remember the exact date, but I do</p> <p>14 remember my wife and I would drive by the neighborhood,</p> <p>15 and then look at the house, make sure the house is</p> <p>16 well-kept. I don't want the tenants to make the house</p> <p>17 dirty or take down the value of the neighborhood.</p> <p>18 Q. Did you ever see anything that made you think</p> <p>19 that the house was not being well-kept?</p> <p>20 A. No, it was real clean outside. But I didn't</p> <p>21 go inside, so I don't know. I didn't go inside.</p> <p>22 Q. But there was nothing on the outside that made</p> <p>23 you feel that you needed to go inside.</p> <p>24 A. Yeah, nothing came by as suspicious. But,</p> <p>25 also, I know that, in America, even as an owner, I</p> | <p style="text-align: right;">Page 220</p> <p>1 much did the property -- how much did you pay the</p> <p>2 property manager?</p> <p>3 A. \$75.</p> <p>4 MS. PATTERSON: A month?</p> <p>5 THE HEARING EXAMINER: Per month?</p> <p>6 THE WITNESS: Another \$10 for insurance.</p> <p>7 BY MR. AGARWAL:</p> <p>8 Q. Anything else?</p> <p>9 A. No.</p> <p>10 Q. Okay. So that's like 7 or 8 percent of the</p> <p>11 rent, right?</p> <p>12 A. Well, I don't know.</p> <p>13 Q. I'll do the math. I'll do the math. Okay.</p> <p>14 Okay. Okay. Fair enough.</p> <p>15 Now, prior to September 26th, 2018, did you</p> <p>16 have any knowledge that there was marijuana being grown</p> <p>17 on that property?</p> <p>18 A. No.</p> <p>19 Q. Okay. Now, at some point, you took a vacation</p> <p>20 or you went to China; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember when you left at the kind of</p> <p>23 end of September 2018?</p> <p>24 A. I think it was the end of August, beginning of</p> <p>25 September. I don't remember for sure.</p> |

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1 Q. Let me show you your travel tickets.
2 A. Because I have the stamp on my passport.
3 MS. PATTERSON: Is this document in your
4 binder, sir?
5 MR. AGARWAL: It's somewhere in there and I'm
6 just trying to find it. There is a passport stamp and
7 some travel itineraries. I'm trying to find that.
8 MS. BICKEL: We can stipulate he was out of
9 the country. We have no issue with that. We have seen
10 the passport. I mean, he didn't return until
11 October 12th, I believe.
12 That's fine. I'll stipulate to that.
13 BY MR. AGARWAL:
14 Q. You left from the country on September 26th or
15 27 of 2018, right?
16 A. Prior to that, I went to China.
17 Q. Let's just make sure we have the dates,
18 because the dates do matter.
19 A. I forgot the exact date.
20 Q. Exhibit 46, administrative appellants, and you
21 have a big binder there.
22 MS. PATTERSON: There we go.
23 MR. CAMACHO: Actually, if I can have my --
24 our binder back, that will be --
25 MR. AGARWAL: Oh, yeah, take your binder.

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1 MR. CAMACHO: Thank you, sir.
2 MR. AGARWAL: Madam Hearing Examiner, this is
3 Mr. Wang's passport, and you'll see -- it's kind of hard
4 to tell. It's turned around. But on the third --
5 MS. PATTERSON: September --
6 MR. AGARWAL: On the third page, there is some
7 stamps and you will see a departure stamp, I think.
8 MS. PATTERSON: September 20th, right, 2018?
9 MS. BICKEL: Which exhibit are we referring
10 to? I'm sorry.
11 MR. AGARWAL: Forty-six.
12 MS. PATTERSON: Forty-six. I believe it's --
13 MR. AGARWAL: I think there has been some
14 question of whether it's a zero or a six or an eight.
15 MS. PATTERSON: I believe it's the year and
16 month --
17 THE HEARING EXAMINER: You got that?
18 MS. PATTERSON: It's a year-month date, so it
19 would be --
20 (Interruption by the Reporter.)
21 THE HEARING EXAMINER: It's what?
22 MS. PATTERSON: It would be September --
23 THE WITNESS: It's --
24 THE HEARING EXAMINER: 09 would be the month,
25 I'm sure.

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1 MS. PATTERSON: Year-month date, yeah.
2 BY MR. AGARWAL:
3 Q. You are looking at Exhibit 46. What is it
4 that stamp says you departed?
5 A. It was September 20th.
6 Q. And did you put a mail hold on your mail that
7 came to your San Francisco apartment?
8 A. I told the post office that I'm taking a trip
9 out of the country, so I told them to keep all of my
10 mail at the post office, and I went there to pick them
11 up when I came back.
12 Q. When you came back, you received an
13 administrative penalty, is that correct, from
14 Sacramento?
15 A. Okay. On October 12th, I went to the post
16 office and pick up all of the mail. And then I saw one
17 that came from the government that has my property ID
18 number. I thought it had something to do with the
19 property tax.
20 Because I have already paid my property tax,
21 so I didn't really pay that much attention to that
22 notice, so I put it aside.
23 And then I went back to work. And then four
24 or five days later, I start looking at the mail one by
25 one. And then I noticed the note, the mail, the letter

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1 I got, has a sign that looks like the police sign. So I
2 start looking up my dictionary and found out that the
3 government wanted to get money from me.
4 Q. The ticket you received, the penalty that you
5 received, you only received by mail; is that true?
6 A. Yeah. It went to the post office along with
7 any other mails.
8 Q. Did you ever get one where you signed for a
9 certified mail?
10 A. No. No.
11 MR. AGARWAL: Madam Examiner, in this case, we
12 have had considerable disputes about whether service was
13 proper.
14 And you will find that there is, on Exhibit 6,
15 a certified copy, certified mail receipt, sent by
16 Ms. Chand. It's the last page of Exhibit 6. And you
17 will see a green number -- excuse me -- a green
18 certified mail receipt.
19 City counsel has never introduced a signed
20 return receipt. But the official certified mail receipt
21 has a 20-digit tracking number on the left-hand side.
22 If you turn to page 7, we have provided
23 tracking number results of that certified mail.
24 MS. PATTERSON: That's correct. But the one
25 right before it, certified first class mail, he did

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| <p style="text-align: right;">Page 225</p> <p>1 indicate he got that, because he'd gone to his post 2 office. 3 MR. AGARWAL: He did. 4 MS. PATTERSON: Right. So he did get notice 5 by first class mail, not certified mail. 6 MR. AGARWAL: He was not served. Service is 7 not allowed by first class mail. 8 MS. BICKEL: The code allows for substituted 9 service if certified service cannot be provided, and 10 that section has been provided in the City Attorney's 11 exhibits. 12 MS. PATTERSON: What do you mean by 13 substituted service? Can you please clarify? 14 MS. BICKEL: So the code section provides for 15 the preferred method of service, which is certified 16 mail, return receipt, but it also provides for 17 substituted service, if that cannot be effectuated, by 18 first class mail and providing at the property, which 19 we've heard testimony that there was a penalty at the 20 property, and by first class mail is sufficient. 21 And his own testimony that he received it is 22 evidence that he received it and -- 23 MR. AGARWAL: Can we keep the argument until 24 later while I establish the facts? 25 MS. BICKEL: I just think this is a common</p> | <p style="text-align: right;">Page 227</p> <p>1 MR. AGARWAL: That is not posted. 2 MS. PATTERSON: That's your argument. 3 BY MR. AGARWAL: 4 Q. Mr. Wang, after you realized there was 5 something official, the government wanted your money, 6 you hired a lawyer, right? You hired me. 7 A. Yes. Yes. I hired an attorney, you, and 8 also, I also called my manager, my property manager. 9 Q. What did you say to him when you called him? 10 A. What's that letter all about, and then I 11 called him. 12 Q. And what did you talk to Mr. Hin about? 13 A. I asked him, "What's this letter for? Why 14 does the government want to fine me so much money?" I 15 asked him whether he know anything about this. 16 He said, "I don't know either." 17 Q. Did you come up to Sacramento then? 18 A. I went to see the attorney first. 19 Q. Okay. Did you eventually come to Sacramento? 20 A. Yes. 21 Q. What did you do? 22 A. He said that he doesn't know anything about 23 this and he doesn't know what to do either. He has 24 never received this notice. 25 Q. And did you go to pay any kind of fine or fee</p> |
| <p style="text-align: right;">Page 226</p> <p>1 issue that we're wasting -- 2 MR. AGARWAL: It's an issue. 3 MS. BICKEL: It's irrelevant and it's wasting 4 precious time and resources. 5 MR. AGARWAL: The document that was posted at 6 the door, the evidence shows, is not the administrative 7 penalty. There is the building order, dangerous 8 building order, which is not at issue in this case. 9 There is no evidence that the administrative 10 penalty was posted on the door. The face of the 11 administrative penalty says it was left on the counter 12 inside the house. That is not posting. 13 (Interruption by the Reporter.) 14 MR. AGARWAL: Leaving it at a rented 15 property, knowing -- 16 (Interruption by the Reporter.) 17 MS. PATTERSON: Slow down for her. 18 MR. AGARWAL: I wouldn't call that posting. 19 MS. PATTERSON: So what she said is, leaving 20 it at a suspicious place on the property, which they 21 said was the counter, your argument was -- 22 MR. AGARWAL: You cannot serve a landlord by 23 leaving on the counter a property -- a notice in a 24 rented home. 25 MS. PATTERSON: That's your argument.</p> | <p style="text-align: right;">Page 228</p> <p>1 for the building? 2 A. There's another bill that came with that 3 notice that I consult with the attorney, you, so I went 4 and paid that bill. 5 But it wasn't me that went to pay that bill. 6 It was the person who cultivated the marijuana that paid 7 the bill. 8 Q. Oh. So when you -- 9 A. But the guy had left already. 10 Q. So when you came to the building department in 11 Sacramento to pay \$13-, \$1,400 dollars, it was already 12 paid, right? 13 A. That's correct. 14 And, also, I went -- we went to the property 15 and found out the property looked like brand new, and we 16 were so surprised. 17 So when I see the photos today, I got real 18 mad, because that's my retirement property and it was in 19 brand new, like-new condition when I bought it, and they 20 turn it into a dump like that. 21 Q. That was the first time you saw pictures of 22 the inside of the grow house, right? 23 A. Yes. 24 Q. Did you have anything to do with fixing up the 25 property?</p> |

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1 A. No, because I didn't know that at all, what
2 had happened.
3 Q. Because you just -- you had been gone the
4 whole time?
5 A. That's right. Because I only saw it once, and
6 then I didn't see it again.
7 Q. Did you have any communications with
8 William Chang of William Construction?
9 A. No, I never heard of his name before.
10 Q. Are you part of any kind of an Asian cannabis
11 gang?
12 A. No, absolutely not.
13 Q. Did you in any way facilitate the growing of
14 cannabis in your future retirement home?
15 A. No.
16 Q. Did the City ever contact you and give you an
17 opportunity to evict the tenant and remove the cannabis?
18 A. No, never.
19 Q. Just issued the penalty to you.
20 A. That's right. That's from the bill.
21 Q. Do you know if they issued a penalty to the
22 tenant?
23 A. I don't know.
24 MR. AGARWAL: Your Honor, Exhibit 44, we would
25 introduce the criminal conviction, certified copies of

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1 the criminal conviction records of You Kai Lin here.
2 MR. CAMACHO: Madam Examiner, if I may, I
3 would object to those records yet again, the same way we
4 objected to them when Officer Pitts was testifying, the
5 same way we objected when Officer -- Sergeant -- I'm
6 sorry -- Kirtlan was testifying. For a third time, we
7 will object to --
8 THE HEARING EXAMINER: We are not here to hear
9 anything relative to the criminal proceedings.
10 MR. CAMACHO: -- those records, because those
11 questions are best addressed by the DA.
12 BY MR. AGARWAL:
13 Q. How much do you make a year?
14 A. About 80,000.
15 Q. What would be the impact of paying this
16 penalty?
17 A. Well, my personal opinion, this is not my
18 fault. Why would they penalize me?
19 Q. Would it impact your ability to have a
20 retirement home?
21 A. Of course.
22 Q. In what way?
23 A. I know that my retirement wouldn't be more
24 than about \$1,000 a month. And for the City to penalize
25 me for something that I didn't do is not right.

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1 Q. Would you have to work longer in order to pay
2 the penalty? When I mean longer, I mean retire later.
3 A. Yeah, I will keep working until I'm 80.
4 MR. AGARWAL: I have no questions. Thank you.
5 THE HEARING EXAMINER: Your annual income is
6 what from your employment now?
7 THE WITNESS: It fluctuate. Every year is a
8 little bit different, because our schedule is
9 fluctuated.
10 THE HEARING EXAMINER: Well, from what to
11 what?
12 MR. AGARWAL: He said 80.
13 MS. PATTERSON: He said 80.
14 THE HEARING EXAMINER: He said 80. I'm sorry.
15 MS. PATTERSON: Does that include income from
16 your wife? Does your wife do any -- does she work?
17 THE WITNESS: My wife, no. My wife is not --
18 wife got sick from this stress. My wife got sick
19 because from this stress.
20 MS. PATTERSON: So wife is sick.
21 But you did manage your \$80,000 a year to
22 live in San Francisco and saved \$90,000; is that
23 correct?
24 MR. AGARWAL: How many years did it take you
25 to save a \$90,000 down payment?

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1 THE WITNESS: Started saving ever since I came
2 to the States. It was about 17 or 18 years.
3 THE HEARING EXAMINER: Thank you. Thank you.
4 MS. BICKEL: No, no, no.
5 CROSS-EXAMINATION
6 BY MS. BICKEL:
7 Q. I promise I won't take too much more of your
8 time. Melissa Bickel on behalf of the City of
9 Sacramento and Sacramento Police Department.
10 Mr. Wang, thank you. I only have a few more
11 questions for you.
12 You and your wife purchased the property
13 together, correct?
14 A. Yes.
15 Q. But when you entered into the contract with
16 EH, it was only you that signed the contract, correct?
17 A. Yes.
18 Q. Was there a reason why she wasn't involved in
19 that?
20 A. Because the mortgage was under my name based
21 on my income and credit. And I was the person who took
22 out the mortgage, and that's why my wife was not signing
23 the management contract.
24 Q. Okay. And before you entered into the
25 management contract, did you have someone who could read

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| <p>Page 233</p> <p>1 English, interpret it for you?</p> <p>2 A. It was translated to me by David.</p> <p>3 Q. Mr. Hin with EH Property?</p> <p>4 A. Yes.</p> <p>5 Q. Did he explain to you, under paragraph 5 of</p> <p>6 that contract, what your continued responsibilities were</p> <p>7 under the agreement?</p> <p>8 A. Yes, he mentioned that.</p> <p>9 Q. Okay. So you understood that, under</p> <p>10 paragraph 5, pursuant to California law, that regardless</p> <p>11 of how they managed the property, you were still</p> <p>12 responsible for maintaining the habitability under</p> <p>13 California law.</p> <p>14 Do you understand what I mean by habitable?</p> <p>15 A. Let me finish. Yes. Yeah, he mentioned that.</p> <p>16 Q. Did anyone else in your family assist with the</p> <p>17 ownership, operation, management of the property outside</p> <p>18 of EH, anyone in your family?</p> <p>19 A. No.</p> <p>20 Q. Now, when you purchased this property and</p> <p>21 decided to rent it, you understood that this was a</p> <p>22 business venture, a risk that you were taking, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And all business ventures have</p> <p>25 responsibilities, even if you have someone else managing</p> | <p>Page 235</p> <p>1 MS. BICKEL: Oh, excuse me.</p> <p>2 MS. PATTERSON: Regarding the objection, what</p> <p>3 the issue she's put on the record is that the property</p> <p>4 manager is acting as his agent. So I think it's</p> <p>5 relevant to what -- if he would have hired him if he had</p> <p>6 known.</p> <p>7 But unless you want to continue your</p> <p>8 objection, but --</p> <p>9 MR. AGARWAL: I've stated my objection.</p> <p>10 THE WITNESS: I just would point out to you,</p> <p>11 in the agreement, David point out to me, and I fully</p> <p>12 agreed with that, is that they won't allow any tenants</p> <p>13 to do any illegal activities. And I like it a lot, so</p> <p>14 that's why I go with him.</p> <p>15 BY MS. BICKEL:</p> <p>16 Q. And I understand that and I appreciate that.</p> <p>17 But if you had found out that another property</p> <p>18 that has a similar agreement under the contract was</p> <p>19 found to be a grow house, would you have continued with</p> <p>20 EH?</p> <p>21 A. Yeah, then I would consider it more carefully.</p> <p>22 Q. Okay. And you are still with EH. Well, let</p> <p>23 me back up.</p> <p>24 Your property is still a rental property,</p> <p>25 correct?</p> |
| <p>Page 234</p> <p>1 the property for you, correct?</p> <p>2 A. Yeah.</p> <p>3 Q. And you hired EH, because you knew you had</p> <p>4 that responsibility and you were relying on them to</p> <p>5 properly manage your property, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And did you contact any other property</p> <p>8 management companies or before hiring EH, or just EH?</p> <p>9 A. No.</p> <p>10 Q. Okay. You just relied on the representation</p> <p>11 of your realtor that they were a responsible property</p> <p>12 management company, correct?</p> <p>13 A. And, also, he's bilingual, and he's able to</p> <p>14 communicate with me in Chinese. It is much more</p> <p>15 convenient for me to have the manager that can</p> <p>16 communicate with me in Chinese.</p> <p>17 Q. Understandable.</p> <p>18 If at any time before this happened at your</p> <p>19 property, if you found out that another property EH was</p> <p>20 managing was the subject of a cannabis grow house, would</p> <p>21 you have ceased the relationship?</p> <p>22 MR. AGARWAL: Object to -- object to -- I have</p> <p>23 the same problem. What he would have done?</p> <p>24 THE HEARING EXAMINER: We're not going to have</p> <p>25 a record. You're not talking into the mic.</p> | <p>Page 236</p> <p>1 A. Yes.</p> <p>2 Q. And it's still being managed by EH, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Have you changed your practices to ensure that</p> <p>5 what happened before won't happen again?</p> <p>6 A. I talked to David and told him to do more</p> <p>7 inspections, more frequently.</p> <p>8 Q. Okay. And has that happened?</p> <p>9 A. Yes. He said he went there.</p> <p>10 Q. I will represent to you that, in the documents</p> <p>11 provided by David in response to the subpoena, other</p> <p>12 than the move-in inspections, there haven't been any</p> <p>13 other inspections with regard to the property.</p> <p>14 Is that -- does that surprise you?</p> <p>15 A. Well, he went inside to inspect the inside</p> <p>16 interior of the property and he also done some exterior</p> <p>17 inspections. We show the inspection, and I went there</p> <p>18 twice.</p> <p>19 Q. Twice? When did you go there?</p> <p>20 A. I went there once this year, several months</p> <p>21 ago, only several months ago.</p> <p>22 Q. Did you ever ask David how a cannabis grow</p> <p>23 house could occur at your property if they were</p> <p>24 responsibly managing it for you?</p> <p>25 A. Yes, I did. I asked him.</p> |

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| <p style="text-align: right;">Page 237</p> <p>1 Q. And what did he say?</p> <p>2 A. After I received the notice, I asked him what</p> <p>3 happened.</p> <p>4 Q. And what did he say?</p> <p>5 A. He said that he went to inspect the property</p> <p>6 once, and I had inspected the property once. And at</p> <p>7 those times, the property was real good and nothing</p> <p>8 looked suspicious.</p> <p>9 Also, prior to the Thanksgiving, they went</p> <p>10 over there to inspect the property again to make sure</p> <p>11 all of the smoke alarms are working.</p> <p>12 Well, then something like this happen. I am</p> <p>13 starting to have reservations about the management with</p> <p>14 David.</p> <p>15 Q. You became aware -- before today, have you</p> <p>16 ever became aware that there was a cannabis grow house</p> <p>17 problem in Sacramento, regardless of the source, other</p> <p>18 than from your attorney?</p> <p>19 A. I heard about it --</p> <p>20 Q. Did you --</p> <p>21 A. -- before.</p> <p>22 Q. I'm sorry.</p> <p>23 A. I heard about it before.</p> <p>24 Q. Did you ever discuss what you heard with</p> <p>25 David?</p> | <p style="text-align: right;">Page 239</p> <p>1 MS. BICKEL: And we are fine as well.</p> <p>2 MR. AGARWAL: Madam Examiner, having rested, I</p> <p>3 would like you to decide on whether you would like a</p> <p>4 closing statement --</p> <p>5 MS. AUTIO: Please raise the podium.</p> <p>6 MR. AGARWAL: -- and in what order you would</p> <p>7 like a closing statement. I do have some things that I</p> <p>8 want to preserve for the record.</p> <p>9 THE HEARING EXAMINER: Uh-huh. Okay.</p> <p>10 MR. AGARWAL: We have heard a number of items</p> <p>11 that your Honor doesn't have the constitutional power</p> <p>12 under Sacramento City Code to decide on issues of</p> <p>13 constitutionality.</p> <p>14 (The Reporter requested clarification.)</p> <p>15 MR. AGARWAL: Your Honor does not have the</p> <p>16 authority under Sacramento City Code to make rulings on</p> <p>17 constitutional issues related to the code.</p> <p>18 So I've reviewed that argument, and it rests</p> <p>19 on section 1.24 of Sacramento Code. I just want --</p> <p>20 (Interruption by the Reporter.)</p> <p>21 MR. AGARWAL: And I reviewed that. When you</p> <p>22 go and look at Chapter 1.24, it refers to administrative</p> <p>23 hearing officers appointed when there is an appeal to</p> <p>24 the City Council. That's not what we have here. It's</p> <p>25 an appeal to you directly under Chapter 1.28.</p> |
| <p style="text-align: right;">Page 238</p> <p>1 A. We already talked about it.</p> <p>2 Q. And what did he tell you?</p> <p>3 A. He said yes. He said that he know about the</p> <p>4 problem and he would pay attention to this problem.</p> <p>5 Q. Before today, have you heard from any source,</p> <p>6 other than your attorney, that one of David's houses</p> <p>7 that he managed was actually found to be a prior grow</p> <p>8 house?</p> <p>9 A. No, I don't.</p> <p>10 MS. BICKEL: No further questions. Thank you.</p> <p>11 Thank you, sir.</p> <p>12 MR. AGARWAL: Thank you for coming.</p> <p>13 MS. PATTERSON: Will you be making a closing</p> <p>14 statement?</p> <p>15 MR. AGARWAL: Excuse me?</p> <p>16 MS. PATTERSON: Are you going to make a</p> <p>17 closing statement?</p> <p>18 THE HEARING EXAMINER: I guess what I'm going</p> <p>19 to ask you is have you dismissed your client and his</p> <p>20 interpreter at this point? Is that what you just did?</p> <p>21 MR. AGARWAL: I am done with my witnesses.</p> <p>22 THE HEARING EXAMINER: Right. And so okay.</p> <p>23 They're going to stay. That's fine. I was about to</p> <p>24 thank them for their presence here today, so I'll do</p> <p>25 that later.</p> | <p style="text-align: right;">Page 240</p> <p>1 Now, I cannot force you to exercise the</p> <p>2 jurisdiction that I believe that you have. You can only</p> <p>3 do what you can do.</p> <p>4 THE HEARING EXAMINER: You are correct there.</p> <p>5 MR. AGARWAL: But I do want to preserve all</p> <p>6 the arguments for appeal to the Superior Court when we</p> <p>7 get there. I don't expect --</p> <p>8 (The Reporter requested clarification.)</p> <p>9 MR. AGARWAL: So part of what I want to do in</p> <p>10 my closing argument is to do some</p> <p>11 preservation statements.</p> <p>12 THE HEARING EXAMINER: She didn't catch what</p> <p>13 you said.</p> <p>14 MR. AGARWAL: I'm going to preserve some</p> <p>15 records. I'm required as a lawyer to do so.</p> <p>16 But I also want to talk to you a little bit</p> <p>17 about what you have heard.</p> <p>18 Normally, it would be on their side or our</p> <p>19 side first. I don't know what your Honor would like to</p> <p>20 have.</p> <p>21 THE HEARING EXAMINER: Why don't you go ahead</p> <p>22 first.</p> <p>23 MR. AGARWAL: Thank you.</p> <p>24 I have practiced 22 years, every court --</p> <p>25 federal, state -- and I made a commitment that I would</p> |

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1 not allow wrong things to happen to someone like a bus
2 driver whose wife is sick because of what happened, who
3 was denied a hearing.
4 THE HEARING EXAMINER: And we're here today.
5 MR. AGARWAL: I had to take a trip to a
6 courtroom to get it.
7 THE HEARING EXAMINER: Okay.
8 MR. AGARWAL: I have very serious concerns
9 about this legislative scheme that Sacramento has
10 enacted and the manner it's been enforced.
11 It is a fact of life that tenants do crazy
12 things. You can be the world's greatest property
13 manager, the world's greatest landlord. Tenants do
14 crazy things. You cannot catch it all. That's just a
15 fact of life.
16 We can quibble about is Mr. Hin doing
17 100 percent or he only did 70 percent. But, remember,
18 nobody thought this. Police were patrolling that area.
19 Nobody noticed it. There were neighbors in close areas.
20 Nobody complained. This is not an obvious thing that's
21 going on in this house. Nobody. Professionals whose
22 job it is to root out these grow houses didn't catch it.
23 They only caught it because of high
24 electricity usage data. That's data that we don't have;
25 we're not entitled to by law. Only the City had it.

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1 The City had it for five months before they did
2 anything.
3 So do I think Mr. Hin is perfect? He's not
4 perfect. But property management is the worst job you
5 can have in life. Everybody hates you. You haven't
6 done enough to get the rent, you haven't done enough to
7 fix the leaky pipes. I know. I'm about to be a
8 landlord and I will be in property management. Property
9 management is awful. It's a hard business.
10 You cannot expect perfection and the law
11 doesn't require perfection. Tenants do crazy things.
12 And it's hard to find out what they're hiding. The
13 police didn't catch him. Trained professionals didn't
14 catch him for five months.
15 One thing is clear. You have two officers.
16 Didn't grow it. He didn't grow anything. And those
17 words that I used, that I was being asked why would I go
18 through grow, harvest, dry, process, that's the words in
19 the statute. That's the words of the statute that are
20 being alleged that are being done.
21 Second, they didn't tell you anything
22 different. You didn't hear anything different. You
23 have a stinky little declaration that maybe Mr. Hin's
24 involved in the cleanup. I did not like that. If you
25 really believe that, drag that guy in here and say that,

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1 say why.
2 At the end of the day, if we really want to
3 deter pot, you have to do it a lot of different ways.
4 You can't let tenants off when they do this stuff. This
5 guy is a repeat tenant offender unknown to us. Unknown
6 to us, I mean my client.
7 And the strategy they put is just to tag the
8 tenant, to no end. What are you deterring? Are you
9 deterring him away from his retirement home? To what
10 end?
11 It's your choice. I think the code empowers
12 you to make the findings of fact. I think the code
13 empowers you to do the interest of justice.
14 Does the interest of justice require a
15 \$137,000 penalty from somebody who spent 20 years saving
16 a \$90,000 down payment, whose wife is sick over the
17 stress of this case? Is that what the interest of
18 justice requires? I'm not sure it does.
19 So I made a commitment to this client that I
20 will do my very best to make sure that the interests of
21 justice were actually done.
22 That's what I have to say. I'll leave it to
23 you to issue your -- because I've read your orders, all
24 of them, that I have been able to get my hands on. I
25 have read, in fact, every word that has been given to

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1 me. And I'm very serious about what's happening. Very
2 serious.
3 On the formal side, I am required as a lawyer
4 to do my job and preserve some issues. I will outline
5 that. I will go through and let you know what I believe
6 the legal issues are.
7 First, Sacramento is required to serve an
8 administrative penalty. That's the technical term in
9 the legal trade. And section 1.28.10 -- excuse me --
10 .010(D)(2)(c) is just titled "Method of Service." It
11 tells you exactly how it has to be executed. That's on
12 personal service or certified receipt. And if those
13 fail, then there are specified methods of substituted
14 service.
15 You will see on the administrative penalty
16 that Officer Kirtlan ticked off personal service.
17 That's not personal service. Leaving it on the --
18 that's Exhibit 1 -- leaving it on the counter of a
19 rented unit is not personal service. No law would do
20 it. No law would agree with that. I think the Superior
21 Court has said that that's not personal service.
22 Certified return receipt, Ms. Chand sent it,
23 it never arrived. Service requires that you actually
24 get it there. It's not just enough to drop it in the
25 mail. That's not fair to try to get hundreds on a

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|---|--|
| <p style="text-align: right;">Page 245</p> <p>1 penalty. You've got to take a little step to actually 2 get it there. The law recognizes that it has to get 3 there in order for my client -- and he never got the 4 certified letter. There was no service. And absent 5 that, the City had an opportunity to do substituted 6 service, and they didn't do it. 7 Our view is, therefore, the hearing is 8 improper except as to the issue of whether there was 9 service. The decision should be limited on the question 10 of whether there was service. And the Hearing 11 Examiner -- with no offense to the role and the 12 importance -- does not have any authority to decide any 13 other issue in this matter until it has decided whether 14 there is propriety of service or service was, in fact, 15 effected as required by the law. 16 Second, the penalty issued identifies 17 Sacramento City Code 8.132.040(B) as the offense, the 18 only statutory provision identified. It says, no person 19 shall cultivate. The allegation is that my clients have 20 cultivated. Cultivating is a defined term. It means 21 planting, growing, harvesting, drying, or processing, 22 which is why I was asking those questions. 23 And the answer was unanimous, that my client 24 didn't do any of that. 25 Second, Chapter 8.13 says you can obtain an</p> | <p style="text-align: right;">Page 247</p> <p>1 things happen. 2 Third, the fundamental authority for the City 3 of Sacramento having even a right of power to impose 4 administrative penalties stems from Government Code 5 53069.4. 6 MS. PATTERSON: What did you say? 7 MR. AGARWAL: 9.4. That is the provision that 8 passed in 1995, a law, primarily championed by the City 9 of San Jose, that lets cities have these hearings to 10 adjudicate these code violations. Because before that, 11 it had to go to court. 12 And when you read that section, what you find 13 today is that the power to impose a penalty the way that 14 it happened here, which is an immediate penalty, they 15 are not given an opportunity to correct. It was only 16 given to municipalities in the state of California as of 17 January 1 of 2019; and to not even have that power as of 18 January -- as of September of 2018. 19 Now, on that score, I would reference to your 20 Honor a set of E-mails from the head of Cannabis 21 Enforcement Policy that I obtained by the Public 22 Records Act. That's at Exhibit 48. 23 MR. CAMACHO: Emilio Camacho on behalf of the 24 Sacramento Police Department. At this point, I am going 25 to raise an objection on Exhibit 48.</p> |
| <p style="text-align: right;">Page 246</p> <p>1 administrative penalty pursuant to Chapter 1.28; Chapter 2 1.28, that the responsible party who does the acts can 3 be penalized. Chapter 1.28.030 says -- it also gets to 4 who caused it, maintained it, permitted it, aided, 5 abetted, suffering, or concealed it. That is the outer 6 bounds upon which an administrative penalty can be 7 issued. And the testimony was unequivocal from two 8 officers that my clients didn't do that: Did not cause, 9 did not maintain, did not permit, did not aid, did not 10 abet, did not suffer, or conceal. 11 We have heard about another provision, 12 8.132.030, as being the basis for the penalty. It is 13 not in the penalty. 14 One of the core requirements of due process in 15 this country is you state what it is that you are 16 accusing somebody of. You cannot show up at a hearing 17 and say, We have changed our mind; there is another 18 provision. 19 We believe that the City's position about 20 knowingly and unknowingly, and that provision 8.132.030, 21 is, one, a violation of our due process rights. 22 Two, it's inconsistent with the statutory 23 authority of 1.28, which extends administrative penalty 24 power according to those people who do act and those who 25 essentially aid and abet, not who just unknowingly have</p> | <p style="text-align: right;">Page 248</p> <p>1 Mr. Agarwal should know that that law was not 2 in effect when this -- when this penalty was actually 3 issued. 4 Just as a little bit of background, the 5 penalty was issued in September -- 6 MR. AGARWAL: Perhaps I can finish my 7 argument, and then he can go on when I'm done. 8 MR. CAMACHO: Let me finish my objection, and 9 then -- 10 MR. AGARWAL: That's not an objection. It's 11 an argument. 12 MR. CAMACHO: Go ahead. Sure. Sure. I'll 13 reserve it for my closing argument. 14 THE HEARING EXAMINER: Thank you. 15 MR. CAMACHO: That's correct. 16 THE HEARING EXAMINER: Please do. 17 MR. AGARWAL: When you read 53069.4, there is 18 the provision effective January 1, 2019, and I have 19 given to your Honor a copy of 53069.4. 20 MS. PATTERSON: Can you tell us what page you 21 are looking at in Exhibit 48? 22 MR. AGARWAL: Let's take a look at page 48 -- 23 Exhibit 48. So there isn't really page numbers on this. 24 But the first thing you will see on page 1 is my public 25 records request.</p> |

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1 MS. PATTERSON: Right. We know.
2 MR. AGARWAL: Then you will see a response.
3 All right. And you will see a series of E-mails,
4 essentially, back and forth with attachments and things
5 between Ms. Hernandez, Zarah Cruz, who is, I think, some
6 type of executive, VP here of cannabis, and Mr. Devlin.
7 And they are referring to the Governor having
8 signed in September, albeit effective later, what is
9 known as bill AB 2164. And AB 2164, here's what it says
10 effective 2019. I have a copy of AB --
11 It for the first time grants --
12 MS. PATTERSON: We found the bill.
13 MR. AGARWAL: And what you will see -- let me
14 paraphrase. It's not in Exhibit 48, but, essentially,
15 you will see some back and forth between, essentially,
16 government relations people, City Sacramento, and
17 Mr. Devlin saying, hey, we have some new bills coming
18 out of the Governor's office, there is this thing called
19 AB 2164, and it for the first time imposes -- it doesn't
20 say this in the text, but it says impose, ad nauseam,
21 imposition of administrative penalties immediately for
22 cannabis, illegal cannabis. And she says, It's my
23 reading that Sacramento needs to amend their statute.
24 Now --
25 (Interruption by the Reporter.)

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1 MR. AGARWAL: To this day --
2 THE HEARING EXAMINER: She didn't finish --
3 MR. AGARWAL: -- Sacramento does not have the
4 authority to do what they are doing in 2019.
5 MS. PATTERSON: That's your argument.
6 MR. AGARWAL: My position is that the fact
7 that the governor, the governor of the state, first
8 granted authority, our view is, as of January 1, because
9 Sacramento did not have that authority prior, they
10 didn't have any authority.
11 What authority did they have? They had
12 authority to issue under government code 53069 in 2018,
13 and today, candidly, administrative penalty immediately,
14 I suppose. Well, they had authority -- they were
15 required to give reasonable notice to correct.
16 You can't just start sending these things out
17 like they're cotton candy. You are going to tell the
18 landlord, hey, we have a problem, take a look. If you
19 don't fix it in 10 days, 20 days, or 30 days, we're
20 going to penalize you. But not in this case.
21 I will --
22 (The Reporter requested clarification.)
23 MR. AGARWAL: I will have you look at 53069.4
24 and the amendment that was made in -- effective
25 January 21 by virtue of Assembly Bill 2164.

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1 Second, when in 1995, by virtue of Senate Bill
2 814, this idea of letting cities adjudicate these
3 hearings was given to the cities. It's an extraordinary
4 delegation of power. There are no rules. Hearsay, here
5 is a declaration from so-and-so, no evidentiary rules.
6 Extraordinary delegation of power.
7 Because they are so informal, state
8 legislature made it very clear that you have to give
9 reasonable notice to correct under certain conditions.
10 And I think --
11 MS. BICKEL: I'm sorry. I didn't understand
12 what you just said right there. Under certain
13 conditions?
14 MR. AGARWAL: Under certain conditions. And
15 if the manner in which you are imposing the fine is an
16 infraction, you are limited as to how far you can issue
17 a fine.
18 Is the conduct at issue here an infraction?
19 Well, guess what, Sacramento says it's a misdemeanor,
20 Chapter 8.132. But, actually, state law tells us it's
21 an infraction. That is found in 11362.4(e) of the
22 Health and Safety Code. So, in fact, the highest amount
23 that you could penalize is \$100 for a first offense, not
24 \$137,500. And Sacramento can't just snub its nose to
25 the state law. It is the law that governs Sacramento.

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1 And whenever there is a conflict between what Sacramento
2 is doing and what the State has already done, Sacramento
3 will fall. That is known as a conflict --
4 (The Reporter requested clarification.)
5 MR. AGARWAL: It is our view that 53069 isn't.
6 Health and Safety Code 11362.4, in conjunction with
7 government code 53069.4, preempts.
8 Two, the Health and Safety Code, which
9 embodies controlled substances use act, in particular
10 11358(c), sets the maximum amount of penalty at \$500 for
11 growing -- also for growing more than six plants.
12 I was overruled, objected to, you can't
13 introduce the tenants provision. That's the provision
14 the tenant was convicted under, he pled guilty to. He
15 didn't get the \$500 penalty. That's my point. How is
16 it that the guy who did the growing is getting no
17 penalty, but here we are doing \$137,500 against the
18 landlord who admittedly didn't aid, abet, grow,
19 anything. That's not fair. Sacramento can't do that.
20 Preempted by virtue of Health and Safety Code 11358.
21 I'll direct the Court to Kirby vs. Sacramento
22 -- excuse me -- County of Fresno at 242 Cal. App. 4th
23 940 to 947, 2015 --
24 MS. BICKEL: This is an unpublished decision
25 and we object to it being raised.

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1 MR. AGARWAL: This California Supreme Court
2 decision is not unpublished.
3 MR. CAMACHO: Sir, they just haven't published
4 the decision.
5 MR. AGARWAL: Kirby vs. County of Fresno,
6 242 Cal. App. 4th -- excuse me -- it's Court of Appeals
7 decision -- 940, 947, 2015, which provides that -- it
8 precludes local regulation of penalties from covered
9 penalties being covered by the state laws.
10 MR. CAMACHO: Are you citing to an exhibit?
11 MS. BICKEL: Is that an exhibit number that we
12 can refer to?
13 MR. AGARWAL: Finally --
14 THE HEARING EXAMINER: Is that an exhibit
15 number? You can --
16 MS. PATTERSON: Exhibit 49 has --
17 MR. AGARWAL: Your Honor, this is a published
18 decision at Cal. App. 4th --
19 MS. BICKEL: What exhibit of yours is it so we
20 can look at it?
21 MS. PATTERSON: Is it 49? It's a Fresno case,
22 but it sounds different.
23 MR. CAMACHO: Again, we just got appellant's
24 binder, you know, 4-inch binder --
25 MR. AGARWAL: It is not attached.

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1 MR. CAMACHO: -- this morning, so we would
2 appreciate --
3 MR. AGARWAL: We'd be happy to provide it to
4 you.
5 (Interruption by the Reporter.)
6 MR. AGARWAL: This body published a decision
7 of the Court of Appeal that has something to do with
8 issues related to this case.
9 MS. PATTERSON: Can you just clarify? Is that
10 Exhibit 49, or are you talking about a different case?
11 MR. AGARWAL: Excuse me?
12 MS. PATTERSON: Is that what's in 49? There
13 is a Fresno case. Are you talking about --
14 THE HEARING EXAMINER: Forty-nine, is that
15 what you are speaking to?
16 MR. AGARWAL: Let me give you the citation.
17 Kirby vs. County of Fresno.
18 MR. CAMACHO: You had a question regarding the
19 status or --
20 MR. AGARWAL: No.
21 MS. BICKEL: No.
22 MS. PATTERSON: It's not Exhibit 49.
23 MS. BICKEL: We were objecting to the
24 Exhibit 49. This is new information to us. So I
25 apologize. I thought he was referring to the case that

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1 was --
2 MR. CAMACHO: And, also, just to put on the
3 record, we were not provided that case that he is citing
4 to. And, again, just to make sure that it's also
5 reflected on the record that we provided every single
6 document that we are citing to, referring to, or using.
7 THE HEARING EXAMINER: Your response?
8 MS. BICKEL: Can we get the cite again,
9 please?
10 THE HEARING EXAMINER: If we don't have that
11 document to review, if I don't have that document to
12 review, which you are referring to --
13 MR. AGARWAL: May I have a commitment from the
14 City Attorney that they will cite no case that was not
15 provided in their brief?
16 THE HEARING EXAMINER: I don't think that's
17 appropriate at this point.
18 MS. PATTERSON: We are not at the court level.
19 THE HEARING EXAMINER: No.
20 MS. PATTERSON: At the court level, what
21 you're reading, you can cite it to the judge whatever
22 you --
23 MR. AGARWAL: Let me just have a statement
24 from wherever it needs to be. I have now provided to
25 you the published decision of the Court.

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1 THE HEARING EXAMINER: Thank you. Okay.
2 MR. AGARWAL: And if it is your view that you
3 can't -- my understanding is you could not make a
4 decision on it anyway. I could just preserve the
5 record.
6 But leaving that aside, if it is your view, at
7 the end of the day, you can't make a decision because
8 you weren't provided a published legal --
9 THE HEARING EXAMINER: I will be able to make
10 a decision.
11 MS. PATTERSON: I need to clarify for you. I
12 know your argument is different, but she's not the City
13 Council. She does not have the authority to change the
14 City ordinance. Even though she was designated by the
15 City Council to hear matters, she doesn't have the same
16 authority as the City Council. She has no authority to
17 throw out the ordinance or state ordinance as
18 unconstitutional.
19 You can make your arguments for the record,
20 you believe you have exhausted your administrative
21 remedies, but what you are asking for her to do, she
22 does not have authority to do.
23 MR. AGARWAL: Sacramento's ordinance,
24 preempted also by California Civil Code 1714(a), and
25 cases that have been interpreted under that, including

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| <p style="text-align: right;">Page 257</p> <p>1 Chee vs. Amanda Goldt Property Management, which 2 provides an illustration, 143 Cal. App. 4th 1360, which 3 provides that the mere owning of a property where a 4 tenant committed a nuisance is not something that's 5 chargeable to a landlord without warrant. 6 Penalty is unconstitutionally excessive. The 7 Bill of Rights, which applies to this city, this state, 8 this country, command that excessive fines and penalties 9 are unlawful. 10 Recently, United States Supreme Court issued a 11 decision in <i>Timbs vs. Indiana</i>. This penalty exceeds 12 wildly the amount that that court expressed concerns 13 about. It also exceeds amounts set by Government Code 14 36900(b), as is incorporated; and Government Code 15 53069.4 wildly exceeds penalties which are set forth in 16 Proposition 64, which mandated those -- 17 (Interruption by the Reporter.) 18 MR. AGARWAL: -- provisions of section code 19 11358(c). 20 Thank you for reminding. 21 For the same reason, that is an excessive fine 22 and penalty, and unconstitutionally so for the 23 California constitution. 24 We have also provided to you some argument 25 with respect to section 1.28.010(D)(4)(f)(i), which</p> | <p style="text-align: right;">Page 259</p> <p>1 City members. I understand that there is a problem. 2 There are laws and limits to how you do that. 3 The method that the City of Sacramento has 4 selected in this instance is not proper, and may well 5 not be proper at all. It exceeds a third of the value 6 almost of the house, and more than the down payment that 7 he spent 20 years saving for, and it is the only home he 8 has to retire in. 9 That's all I have. Thank you, your Honor 10 for -- 11 THE HEARING EXAMINER: Thank you. 12 MR. AGARWAL: -- hearing us. 13 You've heard some of our contention. I hope 14 that you attribute that to the passion we feel on our 15 side about this matter, and not that we have animosity 16 toward anybody up there or anybody on this side. 17 MS. PATTERSON: Understood. 18 MR. AGARWAL: Thank you very much. 19 MS. PATTERSON: Thank you. 20 (A break was requested by the Reporter.) 21 THE HEARING EXAMINER: Yeah. 22 MR. CAMACHO: Do you need a break? 23 THE HEARING EXAMINER: She needs a break. 24 MR. CAMACHO: I'm happy to give a break. I'm 25 just going to do the closing. I could use a break, too.</p> |
| <p style="text-align: right;">Page 258</p> <p>1 grants to you to take into account in the interest of 2 justice. 3 You heard a canned statement, which I have 4 seen repeated in various decisions from Mr. Pitts -- 5 excuse me -- Officer Pitts, a high penalty was justified 6 because of the high profitability of the cannabis. My 7 client did not profit. 8 MS. CHAND: We have concerts in the park going 9 on back here. So we are starting to hear the thump. We 10 can't hear you, sir. Please speak up. 11 MR. AGARWAL: My client did not profit. 12 If he had been given an opportunity to 13 correct, he would have thrown that tenant out of his 14 future retirement home. 15 No evidence that this 63-year-old is part of a 16 gang, or there's an Asian problem associated with him 17 that we have heard nonsense about. He's never violated 18 any other ordinance of this city. There is no evidence 19 of that he's ever done it before, or he's in cahoots 20 with somebody where there are multiple properties out 21 there. 22 I know there are cases where landlords are in 23 cahoots on properties. I've read the decisions. I 24 asked for all of his E-mails, because I wanted to see 25 what was going on here, and asked for E-mails from other</p> | <p style="text-align: right;">Page 260</p> <p>1 Madam Examiner, time? Ten minutes, five 2 minutes? 3 MS. PATTERSON: 3:15? 4 MR. CAMACHO: 3:15? 5 THE HEARING EXAMINER: Yeah. 6 MR. CAMACHO: That will be acceptable to the 7 City, Madam Examiner. 8 THE HEARING EXAMINER: Thank you. 9 (A break was taken.) 10 THE HEARING EXAMINER: We are back in session. 11 MR. CAMACHO: First of all, I just want to 12 start by thanking you for your time, Madam Examiner, the 13 staff here, the City staff, and also Mr. Wang and 14 Mr. Hin for spending the day here with us to make sure 15 that all of the issues are put in front of the 16 Hearing Examiner and we have a transparent, complete 17 record that enables you to make a decision. 18 And on the topic of making a decision, I 19 actually haven't completely agreed with Mr. Agarwal on 20 the concept of justice. However, I do think we have a 21 disagreement of what constitutes justice. 22 I don't look at justice on the basis of 23 Mr. Wang who, you know, I hear is a very nice 24 individual, hardworking alone. I look at the -- I also 25 took an oath, and I actually look at justice as to what</p> |

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1 is good for the people of California and the residents
2 and the City of Sacramento.
3 And what is good for the residents of the
4 City of Sacramento and the people of the State of
5 California is having a nice, safe community to live in,
6 free of immediate dangers to their health or safety.
7 And with that in mind, I just would like to
8 point out a couple of things. As far as Exhibit 48,
9 again, we just got this this morning. But during lunch,
10 I happened to review all of the exhibits, the 51
11 exhibits, that Mr. Agarwal, the appellant, submitted,
12 and I would like to explain and clarify a couple of
13 things and make a couple of objections.
14 Number one, Exhibit 48 -- and, again, I will
15 leave it to Mr. Agarwal whether he has any duty to
16 withdraw this exhibit or not, but I am placing a formal
17 objection because, again, the penalty was issued in
18 September. This bill was proposed -- September of 2018.
19 This bill was proposed, introduced, in 2018.
20 MS. PATTERSON: It doesn't matter when it's
21 introduced. It's not effective until it's enacted.
22 MR. CAMACHO: Correct. It just was enacted,
23 you know, was signed by the Governor in September when
24 this penalty was issued, and the law doesn't exist until
25 January 1st, 2019, which is after.

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1 Now, again, it is improper, in my opinion, to
2 cite law that doesn't exist. But, again, I'll leave it
3 up to Mr. Agarwal.
4 But I will say though, even if it did apply --
5 and I would like to point out to you the Exhibit 48 that
6 Mr. Agarwal submitted. Again, just even though this is
7 not a legal inquiry, I think we would all benefit from
8 the fact, Madam Examiner, that there has always been an
9 exception for specific penalties. Not all penalties are
10 the same.
11 And if I can point out to you, it reads page
12 number 96, but it looks like this. It is the actual
13 chaptered bill, it's towards the end, and I will read
14 that, because this has always -- there has always been
15 an exception to the penalties.
16 And paragraph 2A reads, The administrative
17 procedures set forth by ordinance adopted by the local
18 agency --
19 (Interruption by the Reporter.)
20 MR. CAMACHO: I'm sorry.
21 The administrative procedures set forth by
22 ordinance adopted by any local agency pursuant to this
23 subdivision shall provide for a reasonable period of
24 time, as specified in the ordinance, for a person
25 responsible for a continuing violation to correct or

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1 otherwise remedy the violation -- which is what
2 Mr. Agarwal has been citing to -- prior to the
3 imposition of administrative fines or penalties.
4 This is key. This is something, obviously,
5 Mr. Agarwal did not focus on this, but I am, you know,
6 obligated to give you the full code section, relevant
7 code section.
8 When the violation pertains to building,
9 plumbing, electrical, or otherwise similar structural or
10 zoning issues that do not create an imminent danger to
11 health or safety. That is a very important exception to
12 that.
13 Again, we are not saying that this bill
14 applies, but even if it did, that exception remained
15 unchanged since 1995 from -- and after, you know, 2019.
16 Now, speaking of imminent threat or safety, I
17 could tell you something, but I would like to point out
18 to you to Exhibit -- and this is our binder; I'm leaving
19 Mr. Agarwal's binder for a moment -- Exhibit I, which is
20 a declaration from Senior Fire Prevention Officer
21 Elizabeth McDowell in support of upholding the
22 administrative penalty.
23 I would like to point out page 2 of that
24 declaration, paragraph 5. Okay?
25 Now, mainly, folks have stated why these

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1 properties create an imminent danger to the citizens.
2 You heard from police. We also have a declaration by
3 the building inspector. You can read those on your own
4 time. We provided those ahead of time to opposing
5 counsel.
6 But I just want to read one paragraph, because
7 I think it illustrates what the City of Sacramento and
8 its residents have gone through.
9 Five -- and this is from the declaration --
10 illegal growing operations are replete with electric
11 hazards because of exposed wiring, terminals, and
12 connections. Artificial light is created by
13 high-voltage mercury vapor or high-pressure sodium
14 lamps, each requiring its own igniter, capacitor, and
15 transformer. Firefighters risk electrocution if they
16 make bodily contact with a metal tool or direct stream
17 of water on this equipment at close range. The risk for
18 electrocution is intensified when firefighters operate
19 in limited visibility, which may not be improved by
20 thermal imaging camera, because ceilings and walls are
21 commonly covered with a reflective insulation board.
22 The reflective surface acts as a mirror when viewed
23 through the thermal imaging. All but the smallest
24 growing operation requires a substantial amount of
25 electricity to illuminate the high-intensity lights and

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1 run the air conditioners necessary to remove the
2 excessive heat produced by the lights. The power is
3 commonly obtained by illegally and dangerously tapping
4 into the electric service before the electric meter.
5 This diversion of electrical service is usually
6 connected to separate electrical panels specifically for
7 the growth operation.
8 Now, the declaration of this senior fire
9 officer describes and analyzes in detail every single
10 picture that was provided and why that constitutes an
11 imminent threat to the public health and safety of the
12 citizens of Sacramento; and if I may add, in turn, to
13 the people of the State of California.
14 We have seen what fires can do in our
15 communities. We have seen it in Santa Rosa; we have
16 seen it in Paradise; we have seen it in Ventura County,
17 Southern California, Anaheim. This is something that
18 the City takes very seriously.
19 So, again, we will object to Exhibit 48. But
20 to the extent, just to clarify the record, there has
21 always been an exception for specific penalties. Not
22 all penalties are -- not all violations are created
23 equal, and that is reflected by the legislature.
24 Second, again, we just reviewed this during
25 lunch, but we believe that Exhibit 48, we would like to

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1 also place an objection, because we -- I looked this up,
2 and it lists, according to my research, that this is an
3 unpublished decision. So I'll let Mr. Agarwal, again,
4 decide whether he should withdraw this or not, because
5 most lawyers learn that it is not proper to cite
6 unpublished decisions. So, again, I just did a really
7 quick search, and I believe this is an unpublished
8 decision.
9 If Mr. Agarwal can provide an actual
10 substance sheet that this is a proper --
11 MS. PATTERSON: Are you talking about the
12 decision he didn't give us a copy of?
13 MR. CAMACHO: No, that's another one. That's
14 why I was asking for the exhibit. This one is actually
15 included as an exhibit.
16 MS. PATTERSON: The one that's included is not
17 even in our jurisdiction.
18 MR. CAMACHO: Correct. Correct. So I would
19 like to point this out -- and, again, this is a Fresno
20 decision that, according to our very quick research, we
21 believe it is unpublished.
22 With those exceptions, now, I would like to --
23 I would like to make one more clarification. I do know
24 that Mr. Agarwal was citing some provisions of Prop 64.
25 Prop 64 is the, you know, proposition that legalized and

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1 provided the framework for legalization of cannabis in
2 the state of California.
3 Again, same thing. What Mr. Agarwal failed to
4 state is that that very proposition also provides a very
5 specific code section that states that local
6 governments -- and I'm paraphrasing again, but this is
7 the intent -- may enact reasonable regulations to
8 restrict cannabis. Obviously, we do know that we cannot
9 prohibit cannabis, someone from having six cannabis
10 plants, which is reflected on .040.
11 So, again, the City is acting under that
12 authority along with what we have stated as an imminent
13 threat to the City.
14 Now, let me -- now that I have provided some
15 clarification as to some of those issues, let me just
16 bring it back to what we are here to do.
17 We are here to assess whether the Sacramento
18 City Code was violated in regards to illegal cannabis
19 cultivation in a residential home.
20 Now, what is the standard? This is very
21 important. Okay? Because, again, Mr. Agarwal was
22 saying it's \$100 this, infractions. Those are criminal
23 penalties. Those are criminal remedies.
24 Although the City Attorney does have the
25 ability to pursue a criminal remedy, we didn't. The

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1 City has enacted a program where we do civil and
2 administrative remedies as opposed to criminal remedies.
3 Again, we have stated that the DA handles criminal
4 matters.
5 And with that in mind, the burden of proof
6 under a proceeding such as this one is something that's
7 called the preponderance of the evidence. And the
8 preponderance of the evidence requires that the finder
9 of fact will believe that the existence of a fact is
10 more probable than its nonexistence. In other words,
11 it's more likely than not, after the entirety of the
12 circumstances, that the Sacramento City Code was
13 violated based on the evidence. And we feel that the
14 City has met its burden.
15 So let me just kind of summarize what we, the
16 City, had to prove. We had to prove three elements, in
17 our view.
18 Number one, we have to prove one of these.
19 Actually, here, all of them apply. We either have to
20 prove that one of the following existed. Either
21 ownership, and that element is met, because pursuant to
22 the deed documents and hearing testimony, Mr. Wang and
23 Ms. Yue owned the subject property. So we have
24 established that element.
25 If we hadn't, we had to establish one of the

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| <p style="text-align: right;">Page 269</p> <p>1 other ones. In the interest of time, I'm not going to 2 go through the other ones, but they are there for you, 3 Madam Examiner, and for the record. So first element 4 established.</p> <p>5 Second element is, was cannabis cultivated at 6 the property. And, again, our code currently says 7 whether knowingly or unknowingly, right? And this 8 element is also met. Pursuant to the pictures, 9 documents, and hearing testimony, you saw that there was 10 281 cannabis plants found at the subject property.</p> <p>11 And then the other element is that none of the 12 exceptions apply. The first exception is, is this a 13 licensed business? Obviously, we can't find a licensed 14 business, because they are unlicensed. This doesn't 15 apply here.</p> <p>16 But the second exception actually partially 17 applies, right? Again, this goes hand in hand with what 18 I explained about Prop 64, and how we cannot prohibit 19 folks from having more than six plants.</p> <p>20 However, pursuant to the pictures, documents, 21 and hearing testimony, again, 281 cannabis plants were 22 found at the subject property.</p> <p>23 Consequently, SPD reduced six plants from that 24 total count and issued a fine only for the remaining 275 25 plants at the subject property, again, taking into</p> | <p style="text-align: right;">Page 271</p> <p>1 it, and so you have heard all of that.</p> <p>2 So we feel that given, again, the testimony, 3 the relevant ordinances, and the burden of proof, which 4 I covered at the beginning, the City has proven its 5 case. And, therefore, we respectfully request that the 6 penalty for \$137,500 be upheld because appellant's 7 cannabis-related violation is more probable than not.</p> <p>8 And, again, just to echo what Ms. Bickel said, 9 you know, we do sympathize with Mr. -- the appellant. 10 But when you enter into the business of rental housing, 11 you do have some responsibilities. And when you hire an 12 agent, that agent acts on your behalf. And so, again, 13 entering any business, there is a risk. And so that's 14 why who you give your keys to matters, and that's why 15 the proper management practices also matter.</p> <p>16 But, again, the ordinances are clear and we 17 feel we've met our burden. And with that, we will rest 18 our case, Madam Examiner.</p> <p>19 THE HEARING EXAMINER: Thank you. All right.</p> <p>20 MR. AGARWAL: Thank you very much. We look 21 forward to your decision.</p> <p>22 THE HEARING EXAMINER: With that, we will 23 conclude the hearing today. I thank you all for being 24 here and spending the day with us.</p> <p>25 MR. AGARWAL: Thank you very much.</p> |
| <p style="text-align: right;">Page 270</p> <p>1 account state law.</p> <p>2 So given that the City met the relevant 3 elements to establish a violation, then you move on to 4 what is the penalty. And the penalty is outlined under 5 8.132.050, which states, Notwithstanding the provisions 6 of section 1.28.010(D)(3), the amount of the 7 administrative penalty to be imposed for a violation of 8 the sections .030 or .040 is an aggregate amount 9 calculated at 500 per plant, and that is an emphasis 10 added.</p> <p>11 And so, in conclusion, Madam Examiner, we feel 12 that, given the documentary evidence, the hearing 13 testimony that you heard today, particularly when it 14 comes to how the property was managed, which in our 15 view, it actually fell below the reasonable standard, 16 whether that is of the industry, or of other realtors, 17 or even of 8.08.050, which is the section outlining 18 responsibility for proper property management.</p> <p>19 You have heard about how records were kept 20 about the property. You have heard about how tenants 21 were screened, no applications, background checks ran 22 after the hearing was -- I'm sorry -- after the lease, 23 the non-executed lease, was entered into. You have 24 heard about how, you know, the property, you know, was 25 fixed and the property manager didn't even know about</p> | <p style="text-align: right;">Page 272</p> <p>1 THE HEARING EXAMINER: I will have a decision 2 in 30 days.</p> <p>3 MR. AGARWAL: Thank you.</p> <p>4 THE HEARING EXAMINER: Thank you so much. 5 (The hearing concluded at 3:32 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |

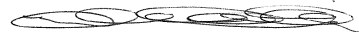
REPORTER'S CERTIFICATION

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I, Mandy M. Medina, Certified Shorthand Reporter,
in and for the State of California, do hereby certify:

That the foregoing was taken at the time and place
herein set forth; that the testimony and proceedings
were reported stenographically by me and later
transcribed into typewriting to the best of my ability;
that the foregoing is a true record of the testimony and
proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name
this 12th day of June, 2019.



Mandy M. Medina, CSR No. 11649

